FOURTH

REPORT

FROM THE

SELECT COMMITTEE

ON

COLONIZATION AND SETTLEMENT (INDIA);

1858

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND

APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
23 *July* 1858.

Martis, 16° *die Martii*, 1858.

Ordered, THAT a Select Committee be appointed to inquire into the Progress and Prospects, and the best Means to be adopted for the Promotion of European Colonization and Settlement in India, especially in the Hill Districts and Healthier Climates of that Country; as well as for the Extension of our Commerce with Central Asia.

Lunæ, 22° *die Martii*, 1858.

Committee nominated of—

Mr. William Ewart.	Mr. Mangles.
Mr. Baillie.	Sir Erskine Perry.
Mr. Campbell.	Mr. Seymour.
Mr. Gregson.	Mr. John Benjamin Smith.
Mr. Kinnaird.	Mr. William Vansittart.
Mr. Knight.	Mr. Villiers.
Mr. Lowe.	Mr. Willoughby.
Mr. Lygon.	

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the Committee.

Jovis, 25° *die Martii*, 1858.

Ordered, THAT the Committee do consist of Sixteen Members.

Ordered, THAT Mr. De Vere be added to the Committee.

Jovis, 6° *die Maii*, 1858.

Ordered, THAT the following Petitions be referred to the Committee, viz.:—From Landed Proprietors, Indigo Planters, Merchants, and Traders in Calcutta and the Lower Provinces of Bengal;—and, Indigo Planters' Association in Bengal;—and, British Subjects resident in Calcutta and the Mofussil Districts of the Residency of Fort William, in Bengal.

Ordered, THAT the Committee have power to Report the Minutes of Evidence taken before them, from time to time, to The House.

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FOURTH REPORT.

THE SELECT COMMITTEE appointed to inquire into the Progress and Prospects, and the best Means to be adopted for the Promotion of EUROPEAN COLONIZATION and SETTLEMENT in *India*, especially in the Hill Districts and Healthier Climates of that Country, as well as for the Extension of our Commerce with Central Asia, and who were empowered to Report the MINUTES of the EVIDENCE taken before them, from time to time, to The House;——HAVE proceeded with the Examination of the Matters to them referred, and have agreed to the following REPORT:—

YOUR COMMITTEE have agreed to Report to The House the Evidence which they have received. As the Subject referred to them is still unexhausted, they beg leave to recommend that a Select Committee be appointed to resume the inquiry in the ensuing Session of Parliament.

23 *July* 1858.

PROCEEDINGS OF THE COMMITTEE.

Mercurii, 24° *die Martii*, 1858.

The Committee met.

Mr. Ewart.
Mr. Lowe.
Mr. Kinnaird.
Mr. Lygon.
Mr. Mangles.
Mr. Villiers.
Sir Erskine Perry.
Mr. Campbell.
Mr. W. Vansittart.
Mr. Gregson.
Mr. Willoughby.
Mr. J. B. Smith.
Mr. Seymour.

The Committee deliberated.

[Adjourned to To-morrow, at Three o'clock.

Jovis, 25° *die Martii*, 1858.

MEMBERS PRESENT:

Mr. Ewart.
Mr. W. Vansittart.
Sir Erskine Perry.
Mr. Lowe.
Mr. Kinnaird.
Mr. J. B. Smith.
Mr. Gregson.
Mr. Campbell.
Mr. Baillie.
Mr. Villiers.

Mr. EWART was called to the Chair.

[Adjourned to Thursday, 15th April, at One o'clock.

Jovis, 15° *die Aprilis*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Knight.
Mr. Campbell.
Mr. W. Vansittart.
Mr. Lygon.
Sir Erskine Perry.
Mr. Gregson.
Mr. J. B. Smith.
Mr. Willoughby.
Mr. Lowe.
Mr. Baillie.
Mr. Mangles.
Mr. Seymour.
Mr. Villiers.
Mr. Kinnaird.
Mr. De Vere.

Major-General *Tremenheere* and Mr. *James Ranald Martin* examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 20° *die Aprilis*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Baillie.
Mr. Lygon.
Mr. De Vere.
Mr. Campbell.
Mr. J. B. Smith.
Sir Erskine Perry.
Mr. Lowe.
Mr. Willoughby.
Mr. W. Vansittart.
Mr. Knight.
Mr. C. Villiers.
Mr. Kinnaird.
Mr. Seymour.
Mr. Mangles.
Mr. Gregson.

Major-General *George Tremenheere* further examined.

Mr. *Hooker* and Mr. *Joseph Dalton Hooker*, M.D., examined.

[Adjourned to Thursday, 22d April.

Jovis, 22° *die Aprilis*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Willoughby.
Mr. Campbell.
Mr. W. Vansittart.
Mr. Lygon.
Mr. J. B. Smith.
Mr. Mangles.
Mr. Lowe.
Mr. Villiers.
Mr. Gregson.
Mr. De Vere.
Mr. Knight.
Mr. Kinnaird.
Mr. Seymour.
Mr. Baillie.

Mr. *Robert Baikie*, M.D., and Mr. *William Theobold* examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 27° *die Aprilis*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. W. Vansittart.
Mr. Gregson.
Mr. Campbell.
Mr. Willoughby.
Mr. Mangles.
Mr. De Vere.
Mr. J. B. Smith.
Mr. Kinnaird.
Mr. Villiers.
Mr. Seymour.
Mr. Lowe.

Mr. *William Theobold* further examined.

[Adjourned to Thursday next, at One o'clock.

Jovis, 29° *die Aprilis*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Kinnaird.
Mr. Campbell.
Mr. Mangles.
Mr. J. B. Smith.
Mr. Willoughby.
Mr. Villiers.
Mr. W. Vansittart.
Mr. Seymour.
Mr. Lowe.
Mr. Gregson.
Mr. Baillie.
Mr. Lygon.
Mr. Knight.

Mr. *Steward Jolly Auld* and Mr. *J. Freeman* examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 4° *die Maii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Willoughby.
Mr. J. B. Smith.
Mr. Villiers.
Mr. De Vere.
Mr. Mangles.
Mr. Kinnaird.
Mr. W. Vansittart.
Mr. Lowe.
Mr. Campbell.

Mr. *John Freeman* further examined.

Motion made, "That the Chairman be directed to ask leave to report the Minutes of the Evidence from time to time" (Mr. *Villiers*). Question put, and agreed to.

Resolved, To report the Minutes of the Evidence to the House.

[Adjourned to Thursday next, at Twelve o'clock.

Jovis, 6° *die Maii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Campbell.
Mr. Mangles.
Mr. De Vere.
Mr. Kinnaird.
Mr. Willoughby.
Mr. C. Villiers.
Mr. J. B. Smith.
Sir Erskine Perry.
Mr. W. Vansittart.
Mr. Lygon.
Mr. Lowe.
Mr. Seymour.

Mr. *George MacNair* examined.

The following Petitions referred to the Committee by The House, read: from Landed Proprietors, Indigo Planters, Merchants, and Traders in Calcutta and the Lower Provinces of Bengal [presented 23d February 1857]; and Indigo Planters' Association in Bengal; and, British Subjects resident in Calcutta and the Mofussil Districts of the Residency of Fort William in Bengal [presented 15th May 1857].

[Adjourned to Tuesday next, at One o'clock.

Martis, 11° *die Maii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Willoughby.
Mr. J. B. Smith.
Mr. Lygon.
Mr. Villiers.
Mr. W. Vansittart.
Mr. Kinnaird.
Mr. Campbell.
Sir Erskine Perry.
Mr. De Vere.
Mr. Gregson.
Mr. Seymour.
Mr. Lowe.

Mr. *George MacNair* further examined.

Mr. *Josiah Patrick Wise* examined.

[Adjourned to Thursday next, at One o'clock.

Jovis, 13° *die Maii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. J. B. Smith.
Mr. W. Vansittart.
Mr. Gregson.
Mr. Willoughby.
Mr. Villiers.
Sir Erskine Perry.
Mr. De Vere.
Mr. Campbell.
Mr. Kinnaird.
Mr. Lowe.
Mr. Seymour.

Mr. *William Theobold* and Mr. *Josiah Patrick Wise* further examined.

Mr. *James Dalrymple* examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 18° *die Maii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. J. B. Smith.
Mr. Willoughby.
Sir E. Perry.
Mr. Campbell.
Mr. Villiers.
Mr. Gregson.
Mr. W. Vansittart.
Mr. De Vere.
Mr. Kinnaird.
Mr. Lowe.

Mr. *James Thompson Mackenzie* examined.

[Adjourned to Thursday, One o'clock.

Jovis, 20° *die Maii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Kinnaird.
Mr. J. B. Smith.
Mr. Lowe.
Mr. Willoughby.
Mr. Villiers.
Mr. Campbell.
Mr. Knight.
Mr. De Vere.
Mr. Gregson.
Mr. Seymour.

Mr. *James Thompson Mackenzie* further examined.

Mr. *J. A. F. Hawkins* examined.

[Adjourned to Tuesday next, Twelve o'clock.

Martis, 1° *die Junii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. W. Vansittart.
Mr. Villiers.
Mr. Willoughby.
Sir E. Perry.
Mr. J. B. Smith.
Mr. Gregson.
Mr. Campbell.
Mr. Kinnaird.
Mr. Lowe.
Mr. De Vere.

Mr. *J. A. F. Hawkins* further examined.

Mr. *N. B. E. Baillie* examined.

[Adjourned to Thursday next, at One o'clock.

Jovis, 3° *die Junii,* 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Campbell.
Mr. Villiers.
Mr. Willoughby.
Sir E. Perry.
Mr. J. B. Smith.
Mr. H. Baillie.
Mr. Gregson.
Mr. Kinnaird.
Mr. De Vere.
Mr. Knight.

Mr. *N. B. E. Baillie* further examined.

Mr. *Joseph Gabriel Waller* examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 8° *die Junii,* 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Campbell.
Mr. J. B. Smith.
Mr. Willoughby.
Sir E. Perry.
Mr. W. Vansittart.
Mr. Lowe.
Mr. D. Seymour.
Mr. De Vere.
Mr. Gregson.
Mr. Kinnaird.
Mr. Villiers.

Mr. *Joseph Gabriel Waller* further examined.

Ordered, To report the Evidence to The House.

[Adjourned to Thursday next, at One o'clock.

Jovis, 10° *die Junii,* 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Campbell.
Mr. C. Villiers.
Mr. J. B. Smith.
Mr. Kinnaird.
Sir Erskine Perry.
Mr. Willoughby.
Mr. Seymour.
Mr. W. Vansittart.
Mr. Knight.
Mr. Gregson.
Mr. De Vere.

Captain *Ouchterlony* further examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 15° *die Junii,* 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Lygon.
Mr. Campbell.
Mr. Gregson.
Mr. W. Vansittart.
Mr. Mangles.
Mr. Willoughby.
Mr. J. B. Smith.
Mr. Lowe.
Mr. De Vere.
Mr. Kinnaird.
Mr. Seymour.
Mr. Villiers.

Captain *Ouchterlony* further examined.

[Adjourned to Tuesday next, at One o'clock.

Martis, 22° *die Junii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Gregson.
Mr. Mangles.
Mr. Willoughby.
Mr. Kinnaird.
Mr. J. B. Smith.
Mr. De Vere.
Mr. W. Vansittart.
Mr. Lowe.
Mr. Seymour.
Sir Erskine Perry.
Mr. Villiers.

Mr. *A. G. Fowler* and Mr. *William Balston* examined.

[Adjourned to Thursday, the 24th, at One o'clock.

Jovis, 24° *die Junii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Mangles.
Sir Erskine Perry.
Mr. Vansittart.
Mr. Villiers.
Mr. Kinnaird.
Mr. De Vere.
Mr. Willoughby.
Mr. Gregson.
Mr. Campbell.
Mr. Knight.

Mr. *John Warden* examined.

[Adjourned till Tuesday, at One o'clock.

Martis, 29° *die Junii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Sir Erskine Perry.
Mr. Willoughby.
Mr. Kinnaird.
Mr. J. B. Smith.
Mr. Villiers.
Mr. W. Vansittart.
Mr. Mangles.
Mr. Gregson.
Mr. Seymour.
Mr. Campbell.

Mr. *William Balston* further examined.

Colonel *Campbell Onslow* examined.

[Adjourned to Thursday next, at One o'clock.

Jovis, 1° *die Julii*, 1858.

MEMBERS PRESENT:

Mr. Ewart in the Chair.

Mr. Campbell.
Mr. Kinnaird.
Mr. J. B. Smith.
Mr. Willoughby.
Sir Erskine Perry.
Mr. Mangles.
Mr. Villiers.
Mr. W. Vansittart.
Mr. Seymour.
Mr. Gregson.
Mr. De Vere.

Colonel *William Campbell Onslow* further examined.

[Adjourned to Tuesday next, at Twelve o'clock.

Martis, 6° *die Julii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. J. B. Smith.
Mr. Gregson.
Mr. De Vere.
Mr. Willoughby.
Mr. Mangles.
Mr. Villiers.
Sir Erskine Perry.
Mr. Lowe.
Mr. Kinnaird.
Mr. Campbell.

Mr. *Herman Schlagentweit,* Phil. D. and L.L.D., Mr. *Robert Schlagentweit,* Phil. D., and the Rev. *Joseph Mullens,* examined.

[Adjourned to Thursday, at One o'clock.

Jovis, 8° *die Julii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Sir Erskine Perry.
Mr. Willoughby.
Mr. W. Vansittart.
Mr. Gregson.
Mr. J. B. Smith.
Mr. Kinnaird.
Mr. Mangles.
Mr. De Vere.
Mr. Villiers.
Mr. Lowe.
Mr. Campbell.

Rev. *Joseph Mullens* further examined.

Mr. *John Warden* and Major *Wingate* examined.

Ordered, to Report the Evidence to July 1st, inclusive.

[Adjourned to Tuesday next, One o'clock.

Martis, 13° *die Julii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Willoughby.
Mr. W. Vansittart.
Mr. Mangles.
Mr. J. B. Smith.
Mr. Gregson.
Mr. Kinnaird.
Mr. Villiers.
Mr. Seymour.
Mr. Baillie.

Major *Wingate* further examined.

[Adjourned to Thursday, at Twelve o'clock.

Jovis, 15° *die Julii,* 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Mangles.
Mr. Willoughby.
Sir Erskine Perry.
Mr. Kinnaird.
Mr. Gregson.
Mr. Campbell.
Mr. W. Vansittart.
Mr. J. B. Smith.
Mr. Lowe.
Mr. Villiers.
Mr. Seymour.

Major *Wingate* further examined.

[Adjourned to Friday, at Twelve o'clock.

Veneris, 16° *die Julii*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Mangles.
Mr. Willoughby.
Mr. Villiers.
Mr. J. B. Smith.
Sir Erskine Perry.
Mr. Kinnaird.
Mr. Campbell.
Mr. Lowe.
Mr. W. Vansittart.
Mr. Seymour.
Mr. Gregson.

Mr. *James Lander* examined.

[Adjourned to Tuesday next, at Twelve o'clock.

Martis, 20° *die Julii*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Mangles.
Sir Erskine Perry.
Mr. W. Vansittart.
Mr. J. B. Smith.
Mr. Kinnaird.
Mr. Villiers.

Mr. *J. F. Moffatt Mills* and Mr. *William Henry Martin*, examined.

[Adjourned to Thursday next.

Jovis, 22° *die Julii*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. Mangles.
Mr. J. B. Smith.
Mr. W. Vansittart.
Mr. Gregson.
Mr. Villiers.
Mr. Kinnaird.
Mr. Seymour.

Mr. *William Theobold* further examined.

Mr. *John Marshman* examined.

[Adjourned till Twelve o'clock To-morrow.

Veneris, 23° *die Julii*, 1858.

MEMBERS PRESENT:

Mr. EWART in the Chair.

Mr. W. Vansittart.
Mr. J. B. Smith.
Mr. Lowe.
Mr. Mangles.
Mr. Villiers.
Mr. Gregson.
Mr. Campbell
Mr. Kinnaird.

Mr. *J. O'Brien Saunders* examined.

Proposed Report read, as follows: "Your Committee have agreed to report to The House the Evidence which they have received. As the subject referred to them is still unexhausted, they beg leave to recommend that a Select Committee be appointed to resume the inquiry in the ensuing Session of Parliament."

Report again read, and agreed to.

Ordered, to Report.

EXPENSES OF WITNESSES.

NAME of WITNESS.	Profession or Condition.	From whence Summoned.	Number of Days absent from Home under Orders of Committee.	Expenses of Journey to London and back.	Allowance during Absence from Home.	TOTAL Expenses allowed to Witness.
				£. s. d.	£. s. d.	£. s. d.
Mr. John Warden - -	- - - -	Lymington - - (Twice summoned.)	2	4 4 -	2 2 -	6 6 -
Mr. Moffatt Mills - -	- - - -	Arundel - -	1	1 5 -	1 1 -	2 6 -
					£.	8 12 -

MINUTES OF EVIDENCE.

LIST OF WITNESSES.

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MINUTES OF EVIDENCE.

Martis, 6° *die Julii*, 1858.

MEMBERS PRESENT.

Mr. Campbell.	Mr. Mangles.
Mr. Gregson.	Mr. J. B. Smith.
Mr. Kinnaird.	Mr. Villiers.
Mr. Lowe.	Mr. Willoughby.
Sir Erskine Perry.	Mr. De Vere.

WILLIAM EWART, Esq., in the Chair.

Hermann Schlagintweit, Esq., Phil. Dr., LL.D., and *Robert Schlagintweit*, Esq., Phil. Dr.; called in, and Examined.

H. Schlagintweit, Esq., Ph. Dr., LL.D., and *R. Schlagintweit*, Esq., Ph. Dr.

6 July 1858.

6976. *Chairman.*] YOU have travelled in India, and particularly in the direction of the Himalaya Mountains, Thibet, and Central Asia?—Yes.

6977. In what capacity did you undertake those journeys?—We were sent out by the Court of Directors on a scientific mission, the primary object of which was to continue the magnetic survey which had been formerly in the charge of the late Captain Elliott, who had died; and besides completing this survey, we had to make observations on the physical geography and geology of the country.

6978. Your journey originally was suggested by Baron von Humboldt, I believe?—Yes; it was suggested by him and most graciously supported by the King of Prussia. We are particularly happy to add, that the Court of Directors, as well as the Government of India, gave us every facility to extend and to generalise our observations.

6979. In what part of those regions did you travel; describe your track, if you please?—We have laid down our routes on a map, which is now before the Committee.

6980. Will you state to the Committee the principal places which you visited?—We arrived in Bombay, and went, partly on two and partly on three different routes, to Madras; there we joined again; then we went up by steamer to Calcutta, and separated again for some time. The parts taken at first by myself (Mr. Hermann Schlagintweit) were the more eastern parts, while my two brothers took the more western parts and the central parts of the Himalayas.

6981. Be so good as describe the course of your journey in the Himalayas?—The general outline of our routes are the following: "Hermann Schlagintweit examined in 1854 the Dekkan and Southern India, with his two brothers, *viâ* Poonah to Bellary; from there to Bangalore with Robert; from Bangalore he continued alone his researches down to Madras. In 1855, Bengal, the Himalayas of Sikkim, and the eastern frontier of Nepal, the Naga and Kossia Hills, Assam, a part of Bhootan, the Delta of the Ganges, and Bramapoutra. In 1856 Hindustan, Oude, the Himalayas of Kunawur, Spiti, the Salt Lakes of Tibet; he met his brother Robert in Leh, and continued with him his researches across the chains of Kuenluen to Khotan (Khotan Yarkand). Returned to Ladak, and then travelled *viâ* Sooroo to Kashmir. In 1857, the south-east Punjaub, Central Nepaul and Bengal. He left Calcutta for Europe on the 23d of April, making a stay of 14 days in Egypt.

"Adolphe Schlagintweit examined in 1854 the plateau of Mahabuleshwar, the southern

H. Schlagintweit, Esq., Ph Dr., LL.D., and *R. Schlagintweit*, Esq., Ph. Dr.

6 July 1858.

southern parts of the Dekkan, *viâ* Kuladghi to Bellary, with his two brothers; went alone by Cuddapah to Madras, with a visit to the diamond districts. In 1855 he visited Bengal, North Western Provinces, the Himalayas of Kumaon, and Gurwhahl, crossed the Himalayas into Tibet with his brother Robert, and examined the basin of the Sutlej, and the sources of the Indus. Ascended on Ibi Gamin to a height of 22,260 English feet. During the cold season he visited parts of Central India, the Valley of the Godavery (Madras Presidency), the Neilgherries, and the fossiliferous strata between Trichinopoly and Cape Comorin. In 1856, part of Bengal, Sirmor and Zanskar in the Himalayas; Balti and Gilgit, in Tibet, and the Mustak Pass, on the Karakorum range. Returned by Gurys to Kashmir, and the Northern Punjaub. In 1857, Northern Punjaub (Peshawur), the hills between Kohat and Huzarah, and a part of the Solenian range. He was then engaged in examining the Himalayas between Kangra and Kashmir, and intended to return to Europe at the end of November; but since then he was prevented from travelling in India by the mutiny. He went a second time to Turkistan, from whence for 11 months no direct news have reached us; the last intelligence through Sir John Lawrence is that there are constant rumours in Ladak that he has fallen at Yarkand in action against the Chinese.

"Robert Schlagintweit examined in 1854 the Dekkan and Southern India, together with his brothers, on his way from Bombay to Bangalore; he went by the Coimbatoor Ghat down to Madras; in 1855, Bengal, North-Western Provinces, the Himalayas of Kumaon and Gurwhahl; he crossed the Himalayas with his brother Adolphe into Tibet, and examined the basin of the Sutlej, and the sources of the Indus; ascended on Ibi Gamin to a height of 22,260 English feet. During the cold season he examined Central India, Bundelkhund, the environs of Amarkantak, and the sources of the Nerbudda, Tons, Sone, and Johilla. In 1856, North Western Provinces, Sirmore, and Lahoul, in the Himalayas, Central Ladak; met his brother Hermann at Leh, and continued with him his researches across the chains of the Kuenluen in Khotan (Khotan Yarkand); went from Leh, by Dras, to Kashmir, and by the most northern route through Hazarah, into the Punjaub. In 1857, travelled through the Punjaub, Scinde, Kutch, Kattewar, and Guzerat down to Bombay and Ceylon. Left Ceylon 11th May for Europe." Our researches extend from 5° to 37° latitude north, and 68° to 98° longitude east Greenwich. The total length of the lines along which the researches were carried on amounts, by an approximate calculation, to 18,000 English miles.

6982. Which was the lowest and easiest pass which you found across the Himalayas?—There are several passes; the lowest of the passes leading over the Himalayas' range to Tibet is, we think, the Niti Pass, 16,000 feet.

6983. Did you make any observations upon the climate?—Yes; meteorological researches were amongst the special objects of our mission to India.

6984. What was the result of your observations upon the climate of the Himalayas?—The Himalayan range is so extensive that different groups of climate must be distinguished. In the more eastern parts the quantity of rain is very great; at Darjeeling, for instance, exceeding 120 inches. This is a particularly predominant feature, and it is one which has not a favourable influence on European constitutions. In the more central parts of the Himalayas, and still more near its western termination, the climate is considerably less humid. In Tibet and to the north of the Karakorum the climate is distinguished by extreme dryness, which makes it much more healthy.

6985. What portion of the Himalaya range do you consider the most favourable for the settlement of Europeans?—The north-western portion.

6986. Which should you say was the best country for settlement or cultivation by Europeans?—Cashmere; but that is not part of the British possessions.

6987. But if it were, would that be the most favourable part?—By far.

6988. In Sikkim, what sort of climate is it there?—The climate is very mild and temperate, but it is particularly characterised by the great fall of rain; the quantity of rain which falls there has exceeded 120 inches within the last few years, during which very detailed observations have been made, and the consequence is, that there is a great tendency to dyspepsia on the part of Europeans, a disease from which even the natives are not exempt when they come up from the plains.

6989. Are there any valleys of any breadth in the Himalayas proper?—There are only large valleys or valleys of any considerable extent in two parts of the Himalaya range, that is, in Nepaul and in Cashmere; they are former lake beds,

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now drained by progressive erosion; the great developement of the erosion is a very characteristic physical feature for the Himalayan valleys in general.

6990. Where are the best roads at present in the north-western parts?—From Simla the road has been made to the Tibetan frontier by Kooloo and Lahoul, and another road has been along the valley of the Sutlej to Spiti; the former one is in excellent condition, and extensively used.

6991. In these parts of the Himalayas are there anything like dairy farms?—No; we were very much astonished by the entire want of dairy farms; there are in some parts places which would be very suitable indeed to them; the cattle are at present of an inferior description.

6992. They are nothing like what you have in Switzerland?—No; the soil would be perfectly suitable to dairy farms, more particularly in the western parts.

6993. Might the breed of cattle be improved at all in that part?—Yes. Crossings between the Yak or Tibetan ox, as well as with European cattle, have been often and successfully tried. Besides the meat and hides, ghee and cheese might be produced, and would both find a good sale. Only sheep are now reared in large quantities, somewhat comparable to Alpine farming in Europe.

6994. You have mentioned dyspepsia and dysentery as prevailing in some parts of the Himalayas; to what cause do you attribute that?—Not to the elevation, but to the great moisture which prevails there, and to the malarious modifications of the atmosphere which science cannot till now chemically define, but the physical effects of which are most decided.

6995. Do those diseases prevail at all in Tibet?—Not at all in Tibet; on the contrary, people go there to get cured of them.

6996. How do you account for their not prevailing there?—We think it is owing chiefly to the dryness of the atmosphere; we never had the slightest case of the kind, neither ourselves, nor our servants or camp followers.

6997. What are the hightest inhabited villages?—In the Himalayas they reach to a height of from 11,000 to 11,500 feet, but then the houses are generally left unoccupied during the winter; in Tibet the villages are much higher; some are above 14,000 feet.

6998. What are the chief roads over the Himalayas into Tibet?—Over the Himalayas the following are the chief roads to Tibet and Central Asia. Bhutan, through the territory of the Kampo Bhutas, about 40 days' march, one primary, one secondary pass. Through Bhutan Proper trading is at present impossible, on account of the population. Sikkim: the best passes are in the east of Sikkim; road to Lassa is now 30 ordinary marches. The difficulties of the road are greatly exaggerated. One of the best passes is the Pari Pass. Nepal is closed to Indian trade at present, on account of Jung Bahadur's government. The passes 177,000 feet at least. One of the most frequented passes is to the east of Gourisanker (or Mount Everest); it is seen in our water-colour picture of Gourisanker. Kumaon, from the foot of the mountains up to passes to Tibet, 14 to 16 days' marches; very deep valleys. Passes high (Uta Dhura and Kyungar).

6999. Have you made any observations upon the trade with the interior?—Yes, we did, particularly in our last journey to Turkistan.

7000. What would be the chief articles of trade if we opened a trade with Central Asia?—One of the most important articles, I think, would be tea, the quantity of tea consumed in Tibet being very great; and the supply coming from China, being carried over a very great distance. The tea consumed in Tibet is generally a coarse one.

7001. How high up in the Himalayas will the tea plant grow?—To the height of about 5,000 feet, as an approximate upper limit, plantations have been made which have succeeded very well; but the best localities are considerably lower. In Assam the tea plantations are on little hills, from 200 to 300 feet above the level of the valley (*a drawing of the valley of the Brahmaputra, was exhibited by the Witnesses to the Committee*). The present well-known commissioner, Colonel Jenkins, had a particular merit in extending the tea cultivations. The tea in Assam was first discovered wild by Mr. Bruce, magistrate at Tezpore, and carefully traced by Dr. Griffiths.

7002. Do you think it probable that under favourable circumstances tea might be cultivated all along the Himalaya range?—Yes, undoubtedly.

7003. So as to produce an almost unlimited supply of tea?—Yes.

7004. Is tea extensively used by the hill tribes?—It is used by them much

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more than it is by the people of the plains. It is not generally used now; but we think that the hill tribes also in the Himalayas would be very glad to get tea if they could purchase it at a rate consistent with their means.

7005. Of course the people of Tibet are supplied now from China?—They are.

7006. Do they consume a considerable quantity of tea?—Tea is considered indispensable by them.

7007. Is it expensive?—The price of the cheapest tea brought into Tibet now is, of course, greater than it would be if it were cultivated in India. Dr. Jameson mentions in his report that he believes he might be able to produce tea at 6 *d.* per pound.

7008. Would the Himalaya tea be better or worse, in your opinion, than the Tibet tea?—It would be far better than the tea which they now get in Tibet.

7009. The people get tea in the shape of bricks, do they not?—Yes, the people use the brick tea, and prepare it with water, salt, soda, and butter; in Central Asia they sometimes use it in that way, but very often they prepare it as we do. Tea prepared according to our fashion, being only an infusion of hot water, is called by the Turks, Mongolians, and Tibetans, tsha tshosh, tea-water; and tea prepared with soda, salt, water, and butter, is called tsha, or tea *par excellence.*

7010. At all events, they could have the brick tea from India, if they preferred it?—Yes; this form is produced by the tea being compressed, and brick tea can be made of any tea; and if it suited their taste better, the plantations of the Himalayas could supply them with tea in the form of bricks quite easily.

7011. Would the Himalaya tea be better or worse, in your opinion, than the Chinese tea?—It would be better than the tea they get now, but not better than the best quality of Chinese tea.

7012. What are the imports that could be brought from Central Asia?—Silks, raw and manufactured; bhang, a kind of intoxicating preparation made from hemp, which is produced in very large quantities; shawls, velvets, sugar-candy, ponies, grain of all descriptions (but this latter only from Central Asia to Tibet, where it is exchanged, instead of money, against Indian merchandise); also gold and silver ingots, but those not in quantities to be remunerative.

7013. Salt forms an article of export, does it not, from Tibet?—Yes, salt is brought down from Tibet to India in great quantities. Large masses of salt are found on the road from Tibet to Khoban in a pure state close to the surface; but salt is a heavy article, and if the circumstances in those latter localities are not very favourable to make it here a great object of commerce.

7014. What besides tea would be an article of export?—Cloth.

7015. Do they use much cloth?—They only use woollen cloth of a coarse description.

7016. By whom is that cloth supplied?—Some of it comes from Russia; we have seen quantities of samples with Russian tickets upon them; they have golden letters of a large size, very showy, and two or three inches long, which are pasted on the cloth.

7017. Do you think that British woollens might be introduced with advantage?—Yes.

7018. Is the access which the Russians have towards this part of Central Asia more easy than the access which we should have by the Himalayas?—Yes, they would always have the advantage of easier roads; but they have the disadvantage of a much greater distance, and of having to travel partly through nearly uninhabited countries.

7019. Do you think, therefore, from your experience as travellers in those parts, that we should have a fair chance with the Russians if good roads were constructed?—Yes; we corroborate the view taken by Mr. Moorcroft, who states "it is at our option whether Central Asia shall be supplied with goods from Russia or from England."

7020. They are a very poor population, both in Tibet and in Central Asia, are they not?—In Central Asia they are much more wealthy; they have very little agriculture, but they carry on an extensive trade.

7021. Besides Tibet, there are other regions inhabited by the Mongolian race, to the north-eastward; are they great consumers of tea?—Yes.

7022. They drink tea in large quantities, do they not?—Yes, and prepared as tsha, in the manner we described as above.

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7023. Would it be possible for us, do you think, to supply them with tea as well as the people in Tibet?—The distance is so great, that we think Chinese tea would be, so far north-east, much cheaper.

7024. But in Tibet we could fairly compete with the Chinese?—Yes.

7025. Is borax found in Tibet in large quantities?—It is chiefly limited to the valleys in the western parts; it is now an article very much used in trade for technical purposes in India, and it is brought down in as large quantities as the means of communication will permit.

7026. Have you not mentioned a stone called the jade stone which is much used in India?—We went to the place where the mines are, to Goolbagashen, in the Karakash valley, and where the stone is found in quite a soft state, though it hardens very soon; all the jade stone seen in India comes from this locality, and I believe that all of it that goes to China goes from that part. That would be an article of trade, the cost of it being so great, that it can well bear a heavy freight.

7027. Is it used exclusively for ornamental purposes?—Yes.

7028. What is the chemical composition of jade?—It is a silicate of magnesia and alumina, containing small quantities of iron and chrom as colouring matter; its mineralogical name is nephrite.

7029–30. Mr. *Mangles.*] Is it something like agate?—Not exactly mineralogically, but it a little resembles some kinds of agate, and cuts or scratches glass very deeply after it has hardened.

7031. *Chairman.*] Is copper to be found in Tibet or in Central Asia?—In the eastern parts of the Himalayas a not unimportant quantity of copper is found, which is brought down to India; but in general, copper, and also zinc, is brought up in great quantities to the Himalayas, where they want it for founding their basins as well as their idols. I met with a piece of zinc near Katmandoo which had come from one of our German zinc works; I found a German inscription on the piece of metal with the words "Schlesischer Verein Justin hütte N^{ro} 10." It was imported to Calcutta, and came from there to Nepal by Bengal.

7032. Have you anything to say with regard to general political relations as affecting trade across the Himalayas?—The very eastern part of the Himalayas, near the junction of the Brahmapootra and the Dihong, are inhabited by independent and nearly savage tribes, viz., the Abors, Mishmis, Sinfos; no trade is possible with these tribes. The first regular settlement of buddhists are met with north and north east of Tezpore; the Khampo Chutias (wandering) Bhutias. There is a succession of small estates dependent on Lhassa, small Lama principalities along the road to Lhassa *viâ* Nurigaon and the Tawong (visited by Hermann Schlagintweit, 1855 to 1856). They would allow trade to be carried on indirectly. Bhutan Proper at the present moment, also much subdivided, seems likely to be for some years quite inaccessible to the European trade.

7033. Mr. *Lowe.*] Why is not Bhutan accessible to European trade?—The people are in a quite unsettled state, and there are many robberies going on constantly.

7034. There is no security to life and property there?—No; and besides, also, politically, not the slightest possibility of access for Europeans.

7035. What is the Government in Bhutan?—It is an ecclesiastical Government; it is much subdivided; the different provinces are pretty independent, and jealous of each other.

7036. There are some Buddhists there?—They are Buddhists only.

7037. Are these rajahs ecclesiastical princes as well as secular?—Yes.

7038. Mr. *Willoughby.*] They have no connexion with the East India Company, have they?—No.

7039. *Chairman.*] Therefore Bhutan Proper you think at present is not likely to be accessible to European trade?—No.

7040. What do you say of Sikkim?—That at present is not in very friendly relation with the Indian Government, but later the Sikkim Government may be induced to allow European trade to go through this country; and that, I think, could be done with great advantage.

7041. Is there much smuggling there now?—Yes; and that shows how profitable fair trade, when properly managed, could become.

7042. What is the reason that they have not opened the road there; have any representations been made to the Government upon the subject?—I do not

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know; but the most able and zealous superintendent, Dr. Campbell, could till now never succeed to open a friendly intercourse.

7043. There is no sufficiently good road at present, and there ought to be a better road?—Yes, but it is not in the power of the superintendent to get it made at present.

7044. Is it desirable, in your opinion?—I think it would be a great advantage.

7045. You have mentioned that there is a great deal of smuggling; what articles are smuggled into Tibet?—Salt, and particularly tobacco.

7046. From India into Tibet?—Salt from Tibet into Sikkim, and tobacco from Sikkim into Tibet. Tobacco, particularly, bears a very high price there.

7047. Are there any other articles smuggled besides salt and tobacco?—Silk.

7048. Are any manufactured articles smuggled?—Not many.

7049. Are the impediments to trade to Tibet in general caused by the inhabitants of Tibet or by the Chinese?—Not at all by the inhabitants, but by the Chinese Government, which I am sure would not answer any official addresses for the purpose of opening trade. When Major Cunningham and Captain Strachey were in Tibet, charged with the regulation of the frontier, the efforts that were made to get official relations with the Chinese were absolutely useless.

7050. Do you think it desirable that any attempt to open the trade into Tibet should be made, not through the local Chinese authorities there, but through the Imperial Government of Pekin?—It might be tried, but the success is very doubtful.

7051. If we come to any general arrangement with them on the subject of trade, might not that be the best opportunity?—Yes; but I think it would depend upon its being said that no European is intended to go into Tibet, and that the trade is to remain as it is now, in the hands of the natives only, that the taxes are not to be too high, and that the caravans are more fairly dealt with than they are at present.

7052. You have mentioned the Rajah of Sikkim as not being favourably disposed to Europeans?—Yes.

7053. Are the people of Sikkim favourably disposed to them?—They are a good natured and kind-hearted people, and they are always great friends with Europeans; also Dr. Hooker in his so successful and important travels, found them so; all the hill tribes are favourable to a European government; they are against the Chinese rulers, and in favour of any European government which might present itself.

7054. Are there any obstacles to our trading in Nepal?—Very great obstacles; the chief trade now being in the hands of Jung Bahadoor and his family, who derive so much personal profit from it that they would object to allow any European to trade direct with them. I know an instance when I was in Katmandoo in February 1857, of applications being made by a very respectable merchant in Calcutta, who was well known to the Resident, Major Ramsay; but it was impossible for him to get any concession as to trading; the chief things he wished to receive from Nepal would have been ivory and hides.

7055. Is it a monopoly enjoyed by the family of Jung Bahadoor which prevents the extension of trade there?—Chiefly.

7056. Mr. *Willoughby.*] Does not the monopoly belong rather to the government than to Jung Bahadoor?—At present he is quite to be identified with the government in Nepal.

7057. He administers the government, does he not?—Yes, with great vigour as well as personal risk. Opposition has often been made, but he always succeeded in suppressing it, not unfrequently with bloodshed.

7058. It is foreign territory there, is it not?—It is.

7059. *Chairman.*] Have you anything to state with regard to Kumaon and Gurwahl?—The inhabitants are very quiet people, and everything is going on very well there. Roads have been partially made.

7060. Can Europeans go that way to Tibet?—No, they cannot; there is great vigilance kept up all along the frontiers; no European is allowed to go there. We only succeeded by being disguised to get to Gartok, the chief trading place of the province Gnarikorsum.

7061. Therefore trade can only go through native hands?—It can only go through native hands.

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7062. What observations have you to make with regard to Cashmere?—I should think that the political relations in Cashmere are now favourable; Europeans can go there, and we know one French merchant who is living actually in Cashmere; his name is Petit, and he deals extensively in shawls, which he sends direct to Paris, to the Compagnie Lyonaise des Indes. I think that the trade of Cashmere could be immensely improved; the inhabitants of Cashmere would probably be the best to be chosen as the intermediate persons to trade with Central Asia; they are very intelligent people, and are well acquainted with trading matters on a large scale; they would also obtain a free passage for European goods, when going through their hands.

7063. Are the Cashmerees favourably disposed to Europeans?—Yes, and also the Government.

7064. With regard to Turkistan and Central Asia, what are the observations that you have to make upon the trade there?—The trade in Central Asia, I should think, could never be carried on by Europeans alone; it must always be from hand to hand, exactly like the Russian trade to Central Asia; that passes from Russia to a large market; different people bring it to the frontiers, and then it is brought down to Tibet and Cashmere. In Tibet goods would probably be exchanged and brought over to their own country; it would be only a continuation of what is done at present. Our celebrated friend Baron Humboldt met with some Cashmerees in his travels in Central Asia as far north as Semipolatinks. The inhabitants of Ladak and Balti, who are subject to the rule of Cashmere are very favourable to the Europeans. The late Gulab Singh, and especially Basti Ram, his chief officer in Tibet, have made great improvements. Basti Ram greatly encouraged trade by building a bazaar and a broad capital street, and by erecting granaries in Nubra for supplying the merchants trading to Yarkand. He also made a good road to Cashmere, and constructed a bridge over the Indus at Kalsche, which is so solid that it can be passed even by camels. He was very successful in introducing fowls, which were formerly quite unknown (as they still are in the higher valleys of Kumaon and Gurwhahl), and are thriving now very well. Basti Ram also increased the revenues, if we are well informed, by making canals for irrigation. The Turkistanis are immediately subject to, but dislike the Chinese rule. At present there is a very severe political war between the Chinese and Turkistanis, where they wish to get rid of the Chinese. The Turkistanis in general are a very fair set of people, free from many vices of the Indian race, and very enterprising, courageous merchants, who travel from Yarkand to Tibet and Cashmere, and to Bokhara, Kotkand and the Russian frontier. They are very uneducated; we met with no merchant who could read or write the Turkish language; some know Persian.

7065. How far do the Turkistan traders proceed southward?—They go occasionally as far as to the plains of India (we met one who had a lawsuit about property at Loodhiana), but that is a very rare exception; they generally go to Tibet and Cashmere.

7066. Can you say how far they proceed towards the Russian frontier?—They go to Tashkend, on the frontiers of Khokand, and to Chiva, through Bokhara. The people say they are not absolutely prohibited from carrying their merchandise through the Russian territory, but they do not like to do so, though very well received and protected there; perhaps on account of the difficulty of getting on where different languages are spoken.

7067. Did you ever meet with any Russians in your travels?—No.

7068-9. You did not go into the town of Yarkand, did you? How far short of it did you go?—No, we were a few marches from it; now our brother Adolphe is there, if he has not been killed, as there is but too much reason to believe.

7070. Did you meet with any Russian goods?—We met with Russian manufactures only besides those made in the country.

7071. Have you any reason to believe that English goods are sold as Russian in any part of Central Asia?—We are no judges as to whether cloth is Russian or English. The labels which we saw were always Russian, it appeared to be Russian merchandise, at all events it was brought through Russia; but we could not tell whether it had been made in Russia, England, Germany or France.

7072. The Russians are the persons through whom the trade comes?—Yes; and the Russians only.

7073. Might goods be brought by a more easy route from the southward?—Yes, by a route to be travelled over with horses, and the Bactrian camels, but not

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not with carriages; very little improvement might make the road passable for horses, as well as for camels, which are extensively used in Central Asia. The chief road, would probably be through Cashmere. The drawing of the Shayok, near Sultan Chuskul here presented, gives a good example how a little improvement might shorten the road; at present not only all the mountains which are shown in this drawing, must be crossed, but another chain of mountains, the Sasser Glaciers must also be crossed. With little difficulty a road might be made along the borders of the Shayok with little inclination, passable for camels and horses.

7074–75. Mr. *Willoughby*.] Who is to make those roads?—The trading nations themselves, supported indirectly by the Government of India, chiefly by getting secured a great facility of disposing of their merchandise.

7076. I gather, from the evidence you have given regarding this country, that whatever trade now exists is carried on by the native traders?—Yes, by native traders only.

7077. And you are of opinion that it could not be carried on through the direct agency of Europeans?—There might be *entrepôts* under European superintendence; there are *entrepôts* now in Leh, the capital of Ladak, for merchandise, in Nubra for grain and provisions.

7078. To whom do they belong?—To the Rajah of Cashmere.

7079. It would be necessary to obtain his consent, would it not?—It would; but I think that that might be obtained without difficulty.

7080. You have talked about experiments being made in the cultivation of tea at Kumaon?—Yes.

7081. Was that under Dr. Jameson?—Yes.

7082. Have you never seen the Government notification upon the terms under which land is granted?—Yes, I know the paper you mean.

7083. Are these the terms upon which land is officially granted in Kumaon? "Grants of land for tea cultivation on the Kumaon and Gurhwal districts of the Kumaon province will be made on the following conditions, on application to the Senior Assistant Commissioner of the district. 2. Each grant will be of not less than 200 or more than 2,000 acres. More than one grant may be taken by one person or company, on the applicant satisfying the local authorities acting under the usual control in the Revenue Department, of their possessing sufficient means and capital to undertake an extended cultivation and manufacture of tea. 3. One-fourth of the land in the grant will be given, free from assessment, in perpetuity, on fulfilment of the conditions below stated. 4. The term of first lease will be for 20 years. For the first four years the grant will be rent-free; in the fifth year, one anna per acre will be charged on three-fourths of the assessable portion of the grant, two annas per acre in the sixth year, three annas in the seventh year, and so on, one more anna being added in each, till, in the last year, the maximum rate is reached of one rupee per acre. The full assessment on a grant of 2,000 acres will thus not exceed 1,500 rupees per annum. 5. The following are the prescribed conditions of clearance. At the close of the fifth year from the date of grant, a twentieth part of the assessable area; at the close of the tenth year, one-fifth of the assessable area; and at the close of the last year, three-fourths of the assessable area is to be cleared, and well stocked with tea plants. 6. In the 21st year, on the fulfilment of the above conditions, the proprietary right in the grant and the right of engagement with Government, shall vest in the grantee, his heirs, executors, or assigns, under the conditions generally applicable to the owners of estates in Kumaon; and the rate of assessment on the lands in the grant, in whatever manner cultivated, shall never exceed the average rate on grain crop lands in the same locality. 7. On failure of payment of the prescribed assessment in any year, or of any of the above conditions (the fact of which failure shall, after local inquiry conducted by the Senior Assistant Commissioner, be finally determined by the Sudder Board of Revenue), the entire grant shall be liable to resumption, at the discretion of the Government, with exception to the portion of the assessable area, which may be *bonâ fide* under tea cultivation, and to a further portion of land, which shall be allowed in perpetuity free of assessment, to the extent of one-fourth of such cultivated area; the portions so exempted will remain in the possession of the grantee, subject to the usual rates or rules of assessment in the district. 8. Grantees shall be bound to erect boundary pillars at convenient points round the circuit of a grant within six months from its date, failing which, such pillars will be put up by the Government

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ment officers, and the cost thereof shall be recoverable from the grantee, in the same manner as the regulated rate of assessment. 9. No claim to the right and interest in a grant on any transfer by the original grantee will be recognised as valid, unless on registry of the name of the transferee in the office of the Senior Assistant Commissioner. 10. So long as Government establishments for the experimental growth and manufacture of tea shall be maintained in the provinces, supplies of seeds and plants will be given gratis to grantees, on application to the superintendent, Botanical Gardens, North Western Provinces, as far as may be in his power. By order of the Honourable the Lieutenant-governor of the North Western Provinces"?—Yes.

7084. You say that Europeans can enter into the province of Cashmere; but of course it is necessary to obtain the Rajah's consent, it being a foreign territory?—There is a treaty with the Rajah of Cashmere to allow any European whom the British Government approve, to pass through his country, but not to settle there.

7085. Military and civil officers are obliged to obtain the consent of their Government, are they not?—Yes, they are obliged to obtain the consent of the Chief Commissioner of Lahore.

7086. What is the object of that precaution?—They do not want Europeans to settle there; all Europeans are obliged to come out of Cashmere in the winter. I do know but of one instance of a European, who is a Frenchman, Mr. Petit, as before mentioned, remaining there; but I do not know how he obtained his permission.

7087. Sir *Erskine Perry*.] How long were you in India?—Three years, nearly.

7088. Have you come in contact with the Hindoos and the commercial classes of India?—Yes.

7089. Are you of opinion that they have a great knowledge of commerce and trade, and that they have a great turn for bartering, and for trade of all kinds?—A certain class of them have.

7090. The soldier class, I suppose, does not trade at all?—No.

7091. Are you not of opinion that their knowledge of trade and their talent for commerce is very great?—We never had to do business with them.

7092. But from what you observed of them in India, are you not aware that the Hindoos are excellent traders, that they are very clever as accountants, and that they have full confidence in one another?—I could not say much for their not cheating one another. I believe they have great talent for bookkeeping, and perhaps it may be improved and increased.

7093. You say you have doubts as to their confidence in one another; are you not aware that the confidence reposed in them is so great among traders, that their hoondees go from one part of India to the other without the least difficulty, and that greater commercial confidence is shown by them than is shown by any other class of traders whatever?—Yes; we know their system of hoondees, and their being accepted.

7094. Therefore the mutual confidence of these trading classes is very great, and that it is not surpassed in any part of the world, so far as you are aware?—I do not feel confident as to that.

7095. Mr. *Gregson*.] A hoondee is a bill of exchange, is it not?—Yes.

7096. Sir *Erskine Perry*.] With these talents for trade and commerce which belong to the Hindoo commercial classes, do you not think that they would find out profitable branches of commerce in the countries you speak of?—Of themselves they would not be able to travel the country through, but we have no doubts, their commercial talents would greatly assist the trade, which can never be carried on but by transferring the goods from nation to nation.

7097. Is not the reason of that, that the climate is very inclement and inhospitable, and that the natives of the hot plains of India would not be able to stand the hardships to which they would be exposed in going through these rugged mountains?—They would not.

7098. They form a natural barrier, preventing trade and intercourse between the one country and the other, do they not?—The inhabitants of the plains go as far as Cashmere; there the merchandise passes, as formerly stated, into other hands. We cannot see a positive obstacle in the climate.

7099. You say that the people to the north of the mountains, and the inhabitants of Yarkand and other places, have a great turn for trade and commerce, and the inhabitants of the plains of India have also, have they not?—Yes.

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7100. Would not the obstacles interposed by nature prevent any active trade from being carried on by these two populations?—At present the roads are scarcely in a state as to allow of it; and nevertheless the trade is already now very important.

7101. Do not these mountains present more extraordinary obstacles to free intercourse between one country and the other than any other part of the globe presents?—They present great obstacles, but they are at present already partially overcome, otherwise no trade could be carried on. Besides, there are obstacles on the other side too; not only the obstacle of distance, but there are uninhabited tracts of country, which are unsafe by robbers; and those difficulties are in many parts equally great with the difficulties of these barriers to which you referred, and which might be considerably reduced by means of roads.

7102. As to the danger of robbers, is not that also incident to the rough and rugged country which these mountains present?—No, there is nearly no robbery going on on the Himalaya side, or, at all events, much less than on the northern side.

7103. Do you not think that, as a general principle, that whatever facilities there are for trade and commerce will be found out by the self-interest of these industrious populations existing on both sides?—I see no bad result from it; for, as we said before, trade can only be carried on by them.

7104. I am asking whether self-interest, which, generally speaking, leads men in all parts of the world to find out what is best for them, would not operate in this case to stimulate commerce, if the natural obstacles which exist could be overcome?—Quite so; only it remains an open question whether trade will find a greater encouragement on the northern or on the southern side. Till now the Chinese and the Russians are the only two nations sending to the north of Tibet.

The Reverend *Joseph Mullens,* called in; and Examined.

Rev. *J. Mullens.*

7105. Mr. *Kinnaird.*] YOU have resided in India, for how long?—Fourteen years and three months.

7106. In what parts?—Chiefly in Calcutta.

7107. Have you had opportunities of seeing the country?—I have travelled during my stay in India about 5,000 miles on land, and about 6,000 miles in the Indian seas, apart from the voyages out and home.

7108. What is your occupation?—I am a missionary of the London Missionary Society.

7109. And you have had an opportunity of seeing the country?—I have travelled in the north up the country as far as Delhi; and in South India through Mysore, and the provinces of Tanjore, Tinnevelly, and Travancore.

7110. Have you ever published any works on India?—I have published various articles in periodicals; I have also written some pamphlets, and a book on the Missions of South India.

7111. Have you directed your attention towards the general questions involving the welfare of the country?—I have had many opportunities and much reason to study several of these general questions: such as those connected with the tenure of land, the state of the native peasantry, their special grievances, their relation to the landowners, and questions of that kind. I belong to the Calcutta Missionary Conference, which has taken a great interest in these questions on behalf of missionaries scattered all through the country; and I have shared in the preparation of several Memorials and Petitions which have been presented to the Council of India and to the House of Commons.

7112. Have you got copies of those memorials, or of some of them?—I can get them all, if required; I have not brought any with me to-day, but I have some of them by me.

7113. Is there any one that contains a succinct account of your views which you would like to put in?—The one that perhaps states most fully our views of the condition of the peasantry in the province of Bengal is the Petition presented by yourself to the House of Commons last year, and afterwards discussed by the House.

7114. That has been printed, has it not?—Yes, by order of the House; but I have others presented to the Indian Council, which I can, if you desire it, lay before the Committee at a future day.

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7115. Would it, in your opinion, be an advantage if there were an increased influx of Europeans into India?—I think that if we can get just and good men, a great many advantages will result from an increase of Europeans. For instance, Europeans generally exercise on the natives a very powerful influence; the habits of thought and the energy of the European are different from what a native is accustomed to. While the native is full of old prejudices and antiquated notions, I think it does him good to come across some of the more modern notions of active-minded Englishmen. In this way we hope that, apart from religious influences, a great many of their old ideas and customs will be broken down, and that the way will be prepared for a better state of things. Then, again, an increase of English will be beneficial in its influence on the community itself. We derive in India a great deal of benefit from the improved English society that comes out to us. It has been shown during the last 50 years, in many ways, that the more Englishmen we can get fresh from England, so much the more does the whole community benefit. Amongst other things, I think our press will greatly benefit, particularly the daily press, in all the Presidency towns. A larger number of Europeans will demand a better press than we now have; a press with broader views, sounder principles, and more correct information.

7116. Since your residence in India you have seen great improvements in this respect, have you not?—I have not seen much improvement in the daily press in Calcutta; which, I am sorry to say, is very defective in many important respects. I do not know much about the press in other parts of India.

7117. But you say the character of the English has caused an improvement? —Yes, it has had an influence upon the whole, I think, for good; and the community bears a much higher character than it did 20 years ago. Then, again, an increase of Europeans in India, I think, will have a good influence upon the Government generally. An independent community of Europeans is of great benefit in watching the measures of Government, and forming an independent opinion upon them; in looking at the working of the laws, and stirring the Government up to supply new laws that may be required; in examining the proceedings of different officers of Government in various parts of the country, and bringing to notice cases that require examination.

7118. *Chairman.*] The want of a "public," as it is called, is often complained of in India, is it not?—Yes; a large independent community would exercise a great influence in that way, as it does in the Island of Ceylon; the general community there exercises a powerful influence on the Government at large, and through their open Legislative Council they have a means of showing that influence which people in India do not possess.

7119. Mr. *Kinnaird.*] Have you any expectation that colonization or settlement in India would answer on a large scale?—Mere colonization is not, I think, suited to the country, and there are many important reasons I can adduce against it. The greatest reason is, that the climate is against Europeans altogether; it is against the colonization of Europeans who will work with their own hands. On the other hand, the expense of going out to India is so great that the class who go as colonists could never afford it, and in that way the claims of India could not compete with those of the United States and Canada, and other parts that are more easily accessible.

7120. Mr. *Willoughby.*] What do you say as to Australia?—I doubt whether India could compete in this respect with Australia. In health it could not do so. The poorer Europeans in India suffer much more than those who have better means. We see the effect of the climate upon them in the case of railway men, engine-drivers, plate-layers, and men of that stamp, and upon superintendents of smiths' and carpenters' shops; the climate tells most fearfully; numbers die of disease very soon. These men find so little to do in their leisure hours, that in many cases they become drunkards. The climate and other circumstances seem very much against them.

7121. These objections do not extend to the hill country, do they?—The hills are better, but even to the hills there are objections. They are only palliatives at the best; they enjoy a colder climate, and give the people a little relaxation from the heat of the plains; but they have special objections of their own.

7122. Mr. *De Vere.*] Are they subject to special diseases?—I have heard that the people suffer from diarrhœa; more particularly in the wet hills as you go eastward along the Himalaya, especially in Darjeeling and Cherra Poonjee.

7123. Are

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7123. Are these hills difficult of access?—They are very difficult of access; for instance, by the most rapid mode of reaching Darjeeling from Calcutta, it takes six days' travelling, day and night, straight on, and the expense also is very great. We should be very glad in Calcutta if it were not so.

7124. Mr. *Willoughby.*] What is the distance from Calcutta to Darjeeling?—I think it is about 300 miles.

7125. Mr. *Kinnaird.*] Has colonization, to your knowledge, ever been successfully tried in the East?—There have been two or three attempts made, but none of them have been successful. Some years ago in Ceylon, Mr. Baker was anxious to form a colony at Newera Ellia, the great high central plain of Ceylon, and I believe he induced a few farmers to go out there; his object was to raise vegetables and fruit for the English population in the island. But they also got the peculiar disease of the hilly country, and were obliged to return, and the scheme was entirely abandoned. There have also been attempts to establish three missionary settlements. One was tried at Patna, under the auspices of the Reverend W. Start; he brought out a great number of artisans from Germany; the object was, by their own labour to make the mission self-supporting. After about five years' trial it entirely failed, and was abandoned; many of the members of that mission were dispersed; some began to employ themselves as teachers in the country, others went into trade, and a few went to Darjeeling and settled there. A second settlement was formed on the Nerbudda, in Central India, and there, owing to the great amount of malaria, many members of the mission died, and that settlement was also entirely broken up. A third settlement was formed about 12 or 15 years ago at Chhota Nagpore, and there again the scheme, as a self-supporting one, failed. The farmers were unable to farm, the climate was quite against them, and they have been gradually employed as teachers, catechists, and superintendents of the numerous Christian villages formed of late years among the Coles. All these three schemes entirely failed, and the people have returned to the kind of employment we have in India, that of superintendents and managers, in which English settlers are to such a large extent engaged.

7125*. Did you ever hear of a scheme for colonizing Darjeeling?—A scheme of that kind was proposed during the last two or three years; it was not brought prominently before the public, I believe; but, theoretically, one might expect it would meet with the same difficulties that other schemes have met with elsewhere.

7126. Sir *E. Perry.*] And practically also?—Yes.

7127. Mr. *Kinnaird.*] Can nothing be hoped for from the East Indian population?—I do not think that the East Indians in India are people who are likely to colonise; they have not the energy and enterprise which should belong to colonists who begin a new settlement. They are exceedingly fond of the more quiet work that society gives them, such as clerkships, writerships in public offices, and so on, but they have never shown any particular desire for schemes of colonization. The late Captain Biden, in Madras, seeing around him a large number of East Indians, endeavoured to form a scheme of that kind, with the object of sending the people away from India to Melbourne; a public subscription was raised in Madras for the purpose, and a number of East Indian young men were sent out under that subscription; they went to Melbourne, but the scheme entirely failed, and I believe that most of them returned to Madras.

7128. Had not Lord Albemarle some scheme?—I can merely speak to that from the papers; but I think he has expressed a hope that an efficient scheme of colonization may be carried out with reference to that class of people; I do not think, however, that it is likely to succeed, for the reasons that I have stated.

7129. You think that there are grave objections to it?—Yes, I think there are grave objections to it, judging from the character and history of the people themselves. An additional reason is, that the East Indian population, after all, are by no means a large class; I do not think they amount to many thousands, taking them all, young and old. And they are not an increasing class.

7130. What becomes of the old soldiers who have been discharged?—The old soldiers, who are called pensioners, are located in various parts of the Presidencies, but they are all in the plains.

7131. You are speaking of European soldiers?—Yes; I have seen them at Cuddalore and Vizagapatam, on the Madras coast at Chinsurah, Chunar, and other places up the country. It seems to me that these men might have settlements given to them in the hill country, where, instead of wasting their lives in drunkenness,

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ness, as they now do, they might employ themselves in cultivating gardens, and so on. I think that might be done with great advantage; it would renovate their health; and if ever they should be needed, as they recently were, for some sudden emergency, they might be brought down into the plains once more, possessing some comparative strength. At present they are entirely useless.

7132. Do you think that many of the children of soldiers might, under proper care and management, turn out useful?—I think we might get a few colonists from them; there is a large number of boys and girls at the Laurence Asylum at Kussowlie; and I believe that there are regimental schools for boys and girls on other parts of the hills; they also, when they intermarry, might become settlers, or colonists, to a small extent; but many of them find employment in the army in different places up the country.

7133. Have you ever turned your attention to the subject of the effect of the climate on Europeans, or are there any tables that you are aware of, giving any statistics relative to it?—I cannot speak of Europeans generally; there are numerous tables, which have been calculated by some of the ablest medical officers in the Company's service. But I have turned my attention to one particular case, which illustrates the effect of the climate on Europeans. I have found, on an examination of the lives and services of 250 missionaries, that the average of their service in India was nearly 20 years, including both those who lived the longest and those who died shortly after coming to the country; taking the average, it amounted to very nearly 20 years. Many missionaries in India live longer than 30 years, and others, again, only live 15 or 20 years, and a few of them die young. In the case of the early Tranquebar missionaries, most of whom were healthy Germans, although they came out to India in the last century, we find this remarkable fact, that 47 lived in India an average of 22 years each.

7134. Sir *Erskine Perry.*] What deduction do you draw from that?—The conclusion that I come to from that is, that when men live temperately the climate does not very rapidly injure Europeans; although at the same time it is found that every European who goes out to India, however carefully and temperately he may live, requires to revisit his native land, in order to get his constitution renovated, every 10 or 12 years.

7135. Mr. *Campbell.*] But not if he lives on the hills, does he?—If he lives on the hills the time might perhaps be longer.

7136. Is there anything to prevent him from living on the hills without the necessity of visiting Europe at all?—I have known instances of Europeans living on the hills, who have been obliged to revisit England after all. At the same time it is well known that many retired officers have continued to live in the hills with their families, for many years together, without change.

7137. Have you not known instances of persons who have been born and bred on the hills, and who have died there?—I have never heard of any.

7138. *Chairman.*] Have you been much on the hills?—No; I have merely passed through the Neilgherry Hills.

7139. Sir *Erskine Perry.*] You know as a fact, do you not, that the European races in the tropics of America live and flourish?—I am aware of it; but I believe that the parts where they flourish most are lofty and dry.

7140. Mr. *Campbell.*] For the ordinary complaints which are prevalent in the plains of India, you know that Europeans visit the hills in order to renovate their constitutions?—The experience that I have had is that Europeans merely visit the hills temporarily; nothing more than that. Few Europeans visit the hills from Calcutta, but from the Punjab and Upper India they are readily accessible.

7141. Mr. *Kinnaird.*] What inducements, in your opinion, could be offered to Europeans to settle there?—It is desirable that the obstacles now existing to the settlement of Europeans, and to the prosperity of their various schemes, should be removed.

7142. What do you consider to be the obstacles?—The chief obstacles at present in India appear to be, not obstacles which are directly placed in their way, but indirect obstacles, arising from the state of the country, bearing especially upon the insecurity of property, and of the large capital which Europeans bring to India. We see these obstacles, I think, chiefly in the very bad courts of the country, in the state of the land tenures, and in the want of a tribunal which is fairly open to Europeans, and to their complaints.

7143. Do you think that they show a great superiority over the natives?—I think that Europeans are superior in every way to natives in all the great schemes for making money that both parties adopt. Europeans have more energy, more skill, and more enterprise, and they are ready to risk their money in a way in which natives in trade are seldom willing to do; they set a good example of energy to the natives, and I think that in many ways they encourage the natives to follow their example.

7144. Is there any progress being made in this matter of settlement now?—Many more Europeans are investing their capital in the country than had come to the country only a few years ago; for instance, down to 1833 no Europeans had the power of really owning land; they were obliged to take estates in the name of an agent, or something of that kind, or under some subterfuge; but now they are able to become proprietors of estates and to purchase land, and by degrees a large number of planters and landowners have come into the country, and invested large sums of money there. I have understood that at present, in Upper India alone, in the Presidency of Bengal, the European landowners have invested no less than 4,000,000*l.* of money in land, and that one million and a half of that money is invested in indigo factories. The number of Europeans is very much larger than it was only a few years ago. In a Return for 1852 which was presented to the House of Commons, the number of settlers outside the Presidency towns was put down, I think, at 416, but it is now very much larger. A reference to the local Directories will show the exact number to be nearly 2,000 in Bengal and Agra.

7145. Mr. *Willoughby.*] Are you speaking of Bengal when you say that there were 416 settlers?—I think it was for the whole of India, but I am not quite sure; I have not the return here.

7146. Are you quite sure of the figures?—Not quite sure.

7147. Because I believe the number was 317?—That is even lower than I stated it.

7148. Mr. *Kinnaird.*] How do you account for the number of settlers not having increased more rapidly, as they have increased in Ceylon?—The settlers in Ceylon have increased very much of late years, since 1848 particularly, when there was a panic among the holders of coffee estates. I think that there are now more than 500 planters in Ceylon. I know that the coffee-estates are 404 in number.

7149. Sir *Erskine Perry.*] To what do you think that is to be attributed?—To the greater security of property in Ceylon, and to the more satisfactory tenures of land there.

7150. Is it not owing entirely to Sir Edward Barnes, the Governor, very wisely selling land out and out at a very low figure?—That is one most influential reason. I have conversed with Ceylon planters on the subject, and that is a point which I should notice as not existing in Bengal.

7151. Mr. *Kinnaird.*] What is the European population in Ceylon?—I will state the figures exactly on Thursday; I have the materials by me, but not here.

7152. Mr. *Campbell.*] You are aware, are you not, that Ceylon presented an annual deficit in its revenues until the introduction of settlers there?—Yes, I am.

7153. Mr. *Kinnaird.*] Are there any hindrances offered by the Government to the settlement of Europeans?—I am not aware that the Government, since 1833, has put any special hindrances in the way of planters and men who wish to invest their capital in the country. In some respects, as in the case of railways, direct encouragement has been given to the investment of money, but that has not been the case in other respects; indirectly a great deal of discouragement has been felt from the long delays which have taken place in remedying many of the defects of which settlers and planters have specially complained.

7154. Have you had any opportunities of seeing the planters, and living on terms of friendship with them?—I have travelled through the district of Krishnaghur, and have seen many planters, and I have also seen the statements made by planters, and statements which others have made against the planters. Two or three years ago a special controversy arose between the missionaries and planters in Bengal as to the mode in which the planters generally treated the ryots on their estates.

7155. Did you draw from that the conclusion that the ryots benefited as much as might have been expected from European planters?—The ryots do derive some kind of benefit from the introduction of the capital of planters among them, but there are special defects, I think, in the mode in which the planters deal with them; the ryots themselves complain that the planters do not treat them justly. I am speaking now of the indigo planters; they say that they do not give them a fair price for their indigo, that rice is a much profitable thing for them to cultivate, but that the planters will not allow them to cultivate rice, but force them to cultivate indigo. I should like to lay before the Committee a statement that was made by the ryots themselves, and which was presented to the Bengal Missionary Conference, as a statement of their particular case. I know the case exactly, because I saw the original document and edited the translation which I have here.

7156. Is that statement to be depended upon, do you think?—I think it is to be depended upon as a statement of their case; of course it is one-sided; it is the case as put forward by them.

7157. Mr. *Campbell.*] Have you generally found that information coming from that source is reliable?—Generally so; but the statement must, of course, be viewed as a statement of their own case.

7158. Ex parte?—Yes, it is ex parte. But inasmuch as the planters, on the other hand, declare that they themselves benefit the country to an immense extent; that they are, in fact, benefactors of the ryots; it is therefore, I think, well that we should hear what the ryots themselves reply to that; possibly the truth lies between the two.

7159. Mr. *Willoughby.*] Will you read the passage, if you please?—It is called the Statement of the Ryots in the Zillah Nuddea, and it says: "We gratefully acknowledge that we enjoy many advantages under the government of the Honourable Company, because in many ways the wicked are checked and the good are protected; but some of the Honourable Company's laws not being adapted to promote our welfare, we are reduced to poverty and depth of misery by the conduct of our oppressors; this we will prove in the following statement:—I. When either native or English gentlemen take a talook or an izárá they cannot get into possession without fighting and oppressing the ryots. When obtained, they are like tigers, and gradually devour the substance of the peasants; and the zemindars sometimes fighting with each other, rob their ryots of all things through their lattials, and desist not until they have killed them. When a zemindar has obtained possession of a village he sends an ameen, who, measuring all the fertile lands of the ryots, writes 20 cottahs for 15, and if no bribe is given he even writes 25 cottahs. Where the Company takes four annas rent (6*d.*), they take five siccas (2*s.* 6*d.*); besides, by indirect taxation for contributions, presents, &c. they take three or four annas more. If any ryot, considering this to be contrary to the Company's established law, refuses to pay the zemindar, he sends piyadas, who forcibly take away his goods, and things worth five rupees are sold for three. For the purpose of keeping order and collecting the rent, the zemindars appoint a naeb to each talook, besides a gomasta and piyada to each village; these, by persecuting, abusing, and intimidating the ryots, obtain a good share of profit. If the ryots be unwilling to pay these forced bribes, they write false arrears in their names, and beating them, force their goods from them. Moreover, in order to pay the yearly salami (douceur) and daily exactions of the naeb, the gomasta, and the piyadas, the women have even to sell their ornaments, otherwise they have, for fear of their wrath, to flee to another place. Owing to all this oppression, the ryots find it hard to enjoy the fruits of their labour, for their oppressors pitilessly deprive them of all they possess, and throw them into fearful distress. If perchance there be a man of property, he is falsely accused, and under the name of 'fines' all is taken from him. The zemindars and their servants force the ryots to labour for them without remuneration, and if they do not go at once upon their order, they take them by the throat and, abusing them, drag them away. Remaining without food the whole day, on coming home in the evening there remains nothing but lamentation with their families; for unless they obtain their daily hire, they cannot manage. Alas, whilst the poor ryots are thus fruitlessly labouring for others, they look one to the other expecting deliverance, but no one has pity on them.—II. Being surrounded by indigo planters in this zillah, the ryots of each village are forced to take advances; if a ryot refuses, lattials are sent, numberless as locusts, and his cattle are impounded and carried to the factory, or the factory's ploughs are sent, and the ryot's recently sown rice is ploughed up, and indigo sown by force; from fear of this, the ryots rather yield to the evil, and take the advances, though with reluctance. When advances are made the ryots receive two rupees per beegah; but from the time of leaving the factory to cutting the crop and carrying it to the vats, there is nothing but giving salamis and bribes, and thus all the money goes away. For to the dewan eight annas

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annas have to be given for salami; to the ameen and dagiddar, eight annas each; to the ticcah dagiddar, four annas; and at the manufacturing time some eight annas must be given to the various servants. Besides this, if a bullock strays into the indigo, the ryot has with folded hands to pay a fine according to their wishes If the ryot does not submit to all this, he cannot cultivate any land for the support of his family, nor can he remain in his native place, but must flee from village to village. Even when there is a full crop on the land for which the advance was made, the amlahs, at the time of the accounts being made up, manage to pay only a fourth part of what is due; consequently, the advance not being balanced, the ryot has to sow again, each successive year, for the debt carried against him; and he has to sell other crops or produce, in order to pay the rent for this very indigo ground, otherwise he will be beaten to death; besides, all the labour of the ryots for indigo is lost labour. It is owing to this oppression and fruitless labour that the ryots are so very poor. We know for a certainty that for the fertility of the ground, and the industry of the peasantry in Bengal, the latter could rise to opulence, if no one deprived them of the fruit of their labour; and they could with ease pay the Government taxes. Besides this, the planters have also thousands of nijabád (their own cultivation) within the borders of each factory; for cultivating this, they send lattials to each village, and bring the ryots with their ploughs and bullocks there, without paying them; in like manner they force them to house the indigo without due remuneration. If a poor man refuses, either because he has to attend to his own work, or because he has nothing to eat, unless he gets his day's hire, he is shamefully abused, and beaten, and forced to go; coming home at night, nothing remains for him and his starving family but lamentation, because without his daily wages they cannot live. —III. The Honourable Company, being desirous of benefiting their subjects, have established various zillahs, and thannahs, and pharis (inferior police stations), and appointed innumerable Bengalis for the punishment of the wicked and protection of the good; namely, they have established sudder ameens, seristadars, nazirs, peshkars, ukils, darogahs, and other officers, in various places. But if we be permitted to speak the truth, there are many among them who are naturally avaricious; for instead of protecting the subjects, they bestow all their care upon filling their own boxes with money. When a big man injures a poor one, even in their very presence, even to death, these gentlemen neither investigate nor punish the case; or if they investigate, it is merely for obtaining money, and having received this, they declare even the murderer guiltless. If the zillah judges, collectors, and magistrates will kindly look into the daily complaints from the beginning to the end of the year, they will see how many poor people have complained against planters and zemindars. And even if any did complain, what poor man has ever gained a case? We do not know of one, and the cause is this: the poor have no money to bribe the amlahs with; they receive and carry the case of him who gives most money. Alas! Alas! another grievance is this, that if a poor man is falsely accused, the chaprasses bind him and punish him in many ways; but when a big man commits even a heinous crime, they approach gently, stand in a retired corner, and taking money, let him off, and return with a gladdened heart. For these and other causes, the poor cannot complain against the great men. It is owing to the avarice of the aforesaid amlahs, that the oppression of the ryots of this country knows no bounds. Just as a hen while sitting on her young ones, protects them, but the moment she leaves them, the enemy pounces upon and destroys them, so the aforementioned amlahs, if they had any feeling for the ryots, could easily save them, and no one could wrong those helpless people. If the Honourable Company therefore will first discipline their own Bengali amlahs, there will be incalculable benefit; and if a poor man has to lodge a complaint, let his case be investigated by a faithful European. In this manner the guilty will be punished and the poor saved.—IV. We are the Honourable Company's subjects, and we are such gladly. We do not object to their taxation; on the contrary, we give their appointed taxes with willing hearts. However, we scarcely know that the Honourable Company is our ruler, but the zemindars and planters appear to us to be our governors, because they deal with us according to their pleasure, as we have above stated. We prefer, therefore, this request, that we cannot possibly endure the oppression of the zemindars any longer. Our desire is, that we be no longer subject to the zemindars, that none be any longer put over us, and that we have no longer to pay our rent through them; but being the subjects of the Honourable Company, we desire to know them alone, and to be governed by them alone; that we be permitted to pay our rent to them direct. And we agree to pay double the amount of rent they are now drawing from the zemindars. We also request that the Honourable Company appoint a faithful man, or one whom the ryots recommend out of their own number, to each village, to collect and remit the rent; he would collect the rent gradually, and remit it at the appointed time to the collector. These men should be authorised to settle little disputes, and report more serious cases to the authorities of the Company. Further, we beg that the Honourable Company will appoint faithful Europeans, at the distance of 12 or 14 miles, for administering justice, because we do in nowise obtain it from Bengalis. Further, we request that if the Honourable Company desire to obtain proofs of our statement of the zemindars and planters' oppression, they should secretly appoint some trustworthy Europeans to elicit information from the ryots, but so that the zemindars and planters may not hear of it; otherwise they will, in many ways, intimidate them and close their mouths, for they dread the exposure of their faults. May God incline the hearts of the Company graciously to attend to the prayer of their destitute subjects; may He grant that the day of deliverance come. Finally, we request that the Honourable Company pass a law to check the oppression of the strong, and to compel their amlahs to do justice to the poor."

7160. Mr. *Willoughby.*] By whom was that statement drawn up?—I believe by the people themselves.

7161. Do you not rather think that some missionary has drawn it up as a statement of the view taken by the ryots?—I do not think so; some native schoolmaster or catechist may have had some share in it, but I do not think that the missionary through whose hands it came had anything to do with it.

7162. Mr. *Kinnaird.*] Will you tell us the history of the document you have read, as far as you know?—I think the history of it is this. At the time we held a special conference of all the missionaries in Bengal, in September 1855, I think one question that was brought up by the missionaries from the Mofussil was, how far and in what respect the zemindary system and the system of indigo planting were a hindrance to the progress of missions; and one part of the question as to the influence of indigo planting was treated by the Reverend F. Schurr, one of the missionaries of the Krishnaghur district. In these districts thousands of ryots are employed on indigo factories; and Mr. Schurr presented a statement of what he had found in his own experience, and what he had heard as to the experience of others, with regard to the influence of the system upon his own labours, and upon the labours of others; and connected with that, he brought up, in Bengalee, the statement of the ryots which had been presented to him.

7163. Sir *Erskine Perry.*] Do you not think that the statement which you have just read must have been compiled by some gentleman of education?—I do not think so; I do not think it is better than any of the catechists would be quite competent to compile; many of the notions and suggestions, too, prove that they come only from natives.

7164. Mr. *De Vere.*] Is it not the fact that the very wording of the statement contains forms of expression which are usual among the poor of that country?—I think so, decidedly.

7165. Mr. *Kinnaird.*] From your knowledge and experience, are you inclined to give a certain weight to that statement?—I feel inclined to give considerable weight to it; I think it is an honest statement of their case; it may be overstated, but still it is a statement of what they think, and of the mode in which they put their case, in relation to the zemindars, the planters, and the police.

7166. And you think, therefore, that it is worthy of the consideration of this Committee?—I think there is a great deal of truth in it, from what I have myself heard from the people, and that the Committee may justly take it into consideration.

7167. Mr. *Campbell.*] Do you think that more European magistrates are necessary?—I think so, decidedly.

7168. Mr. *Kinnaird.*] Have you any other testimony from other parties with regard to the matters contained in the statement which you have read?—Many other parties have also testified to the same kind of evils in the indigo-planting system. For instance, the reports of the Superintendents of police have brought to light many cases of oppression on the part of the zemindars and indigo planters. There was a statement made several years ago by one of the most able civilians in the Company's service, in the "Calcutta Review," which gives the same account of the most important and special evils existing in the system. The writer shows

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shows that the great fault charged upon the indigo planters by the ryots has been that they oppress them greatly, by forcing the cultivation of indigo upon them when they do not wish to have it, and that they will not let them cultivate rice, which would be much more profitable to them. The result is, that the cultivation of indigo is extremely unpopular among the ryots. The letters and statements of the planters themselves show that, as zemindars, they exercise a very considerable power; they have cutcheries of their own, for instance; they summon their ryots to their factories, and can fine them, and deal with many cases connected with their affairs. I think, however, that a great deal of the general evil connected with the system has been forced upon the planters for the want of good tribunals, where they and the ryots could have their cases fairly adjudicated by third parties. There are, no doubt, special evils which are chargeable upon the planters; but I think that the general evils are forced upon them in other ways.

7169. In what other ways?—I think there are these three important obstacles to the security of property and the increase of capital in the country: the bad state of the courts, the state of the land tenures, and the want of a good tribunal, like a free open legislative council, where statements that we may make about defects in the Government may be thoroughly heard and investigated.

7170. What is your opinion as to the police?—The police, also, might be put down as a fourth obstacle; in fact, they should be all put together.

7171. Had you any opportunities of judging of the efficiency of the police?—Only in general; I never personally came across them, but I have heard it from the first day I went into the country until the last. The complaint is the same in all parts of the country; in fact, we need not turn to what we ourselves see on this point; the highest officials of the Government, from Mr. Halliday, downward, in Bengal have always complained of it, and have allowed that the police system is rotten to the core. What we complain of is, that while the evil has been known to exist for so many years, so little has been done to correct it.

7172. Has there been any tribunal to which they can appeal?—We have no good tribunal before which we can really bring forward the various evils which we consider to exist in the country. The present Legislative Council is by no means so open as we should like; all the members of the present Legislative Council are officials, appointed by the Government, and they are so far irresponsible, except to the Government itself, and it is very hard to get a case fully taken up in the Legislative Council and discussed on every side. In Ceylon the planters have a Council in which they have the highest confidence, and in which some of their own members are engaged; the Ceylon Council is appointed partly from officials and partly from different sections of the country, one or two planters, one or two merchants, and one or two natives, so that all classes are represented; a council like that in Calcutta would be a great help to having these questions thoroughly discussed.

7173. In spite of all these evils, how do you account for so much capital finding its way into the country?—The only reason which I can give for the increase of capital is that, after all, the price of indigo and of produce generally is so high in the regular market that it pays for all the insecurity and all the risk which attend their growth.

7174. Does India, in your opinion, offer a great field for the employment of European capital?—A very wide field indeed.

7175. And do you think that it would be remunerative?—Very remunerative, particularly in the great plain of the Ganges; from the highest and the lowest part of the country there is a rich fertile soil, which would produce almost anything if proper labour were applied to it, and if proper means were taken to develope its capabilities.

7176. Have you seen great improvement in that respect during the 14 years you have been in India?—I think so; one proof of the increase is this; we see that in Calcutta the number of agents and merchants has very much increased; another which illustrates the increase of capital and shows its value is, that the native wages have steadily risen during the last 10 years, not merely in Calcutta, but in other parts of Bengal.

7177. If the same facilities for obtaining land were given in India as are given in Ceylon, do you think that that would be attended with advantage?—I think that that would tend very much to do away with the insecurity which at present exists. At present, no one has the power of holding in Bengal land as a freehold;

all land is held subject to a very large Government assessment, and not only is the assessment high, but if that assessment is not paid by sunset on the day on which it becomes due, the collector can sell up, not merely enough to pay what is due, but he can sell up the right and title to the estate: that penalty hangs over every zemindar four times every year; the collector can sell the entire property.

7178. Mr. *Campbell.*] Although it may be 10 times the value of the rent due?—Yes.

7179. Mr. *Willoughby.*] Was there not a Sale Law passed with a view to remedy that evil?—It has not been passed. Mr. Grant proposed a new Sale Law, but I do not think it has yet passed the Legislative Council.

7180. Mr. *Gregson.*] Is the land wholly sold, or is it only sold to the extent of the defalcation?—If the rent is not paid on the quarter-day, the title to the whole is sold; the estate is sold in the market. I believe that now the zemindar has the right to buy it in again; but the money, the produce of the sale, is paid over to the collector, and the balance, after deducting what is due, is paid back to the owner of the property; supposing his estate to be worth 50,000 rupees, and his taxes to amount to 10,000 rupees, then 40,000 rupees are given back to him; but his estate may be sold out of his hands. I asked the planters of Ceylon about this question, and they said that it would have been impossible for them to have had so many coffee plantations brought into cultivation if they had anything of that kind hanging over their heads. In Bengal, even as missionaries, we think that the opportunity of redeeming the land-tax and getting zemindaries in which no land-tax was required to be paid, would furnish a good opportunity of settling men who are not happily situated on ordinary zemindary estates; a proof of that is seen in the high value of the Lakhiraj estates.

7181. Mr. *Smith.*] You state that the Government tax on land in Bengal is very high; are you aware that it is the lowest in India?—No, I am not aware of the exact proportion, but I have always understood that the tax bears a high proportion to the actual or net produce of the land.

7182. Are you speaking of the tax which is paid to the Government, or the rate which the ryot pays to the zemindar?—The tax paid to the Government.

7183. Mr. *Willoughby.*] It has been stated in the evidence to average 1 *s.* 6 *d.* an acre; should you consider that high?—Out of the whole profit? no.

7184. I am speaking of the Government tax; are you not confounding the two?—I understand that the rent is about 30 per cent. of the whole, and that the Government tax amounts to nearly half the rent. So Mr. Frank Robinson describes it in his little book on the "Land Revenue of India."

7185. That would be 15 per cent. on the gross produce?—Mr. Robinson states it as 17 per cent. of the whole produce.

7186. But you have no personal knowledge upon the subject, have you?—No, I have not.

7187. Mr. *Smith.*] Have the missionaries, as far as you are aware, made many converts?—Do you mean in Bengal?

7188. In any part of India?—The number of converts that we have at present amounts to 112,000.

7189. Sir *Erskine Perry.*] Is that all over India?—All over India and Ceylon.

7190. Mr. *Smith.*] What is the general character of those converts; are they more moral and industrious than the natives?—Certainly; there is no doubt about that, looking at the converts as a whole.

7191. Because we have had witnesses who have said that they would never employ a Christian convert, and that they always prefer giving employment to the natives, on the ground that their morals are superior to those of the converts?—That the morals of the Hindoos are superior?

7192. Yes.—And that on that ground they prefer the Hindoos?

7193. Yes.—I, of course, cannot judge of what other people may prefer; but I do not see any reason for it, and I never heard the fact so stated by those who really understand both the parties. There are all kinds of Christians among the people; there are those who are merely nominal Christians, and there are those who, I hope, are really so. In the Krishnagur district, where so many planters reside, unfortunately a very large number of the people became nominal Christians only; they are only gradually improving, and beginning to appreciate Christianity, and to act upon it. There is no doubt that in the Krishnagur district there are

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very many who are merely nominal Christians; and that opinion may be an exaggerated reference to this case.

7194. Do the numbers you have stated include the nominal Christians as well as those who are communicants?—The number of communicants in all India amounts, I think, to 20,000: the 112,000 include old and young, communicants and nominal Christians.

7195. Do you find any difference in the morals of those who are communicants, and those who are merely nominal Christians?—Yes, the communicants are expected to have a much higher standard of character than the others, and they would not be allowed to be communicants if they were not so.

7196. Do you find that those who are in communion with you are generally more truthful than the natives?—I think so; I never heard any opinion expressed to the contrary; they ought to be, and I think that they are so, in fact.

7197. What is the treatment of the natives by Europeans generally?—Some treat them very severely; some keep them at a great distance; I think that, on the whole, the natives have not been treated as kindly and gently by Europeans as they ought to have been.

7198. Are they not, on the contrary, in many cases treated with great contempt, and are not opprobrious epithets applied to them?—Yes, that is the case.

7199. Is not that conduct very much resented by the natives?—The poorer natives would resent it if they could, and I know that they feel it deeply; but being very often servants and common tradespeople, they are unable to resist it.

7200. Is it not the fact that Christianity has not been presented to the natives in a very inviting aspect, as far as example goes?—In many parts of India that has been the case; but there have been some very fine examples of Christian principles and Christian practice presented by many most excellent officers of Government, and the natives decidedly distinguish between the two, and understand the difference thoroughly. The evil is still great; but was much greater in former days.

7201. In all those cases in which a Christian example is set to the natives, it is appreciated by them, is it not, and they have confidence in those by whom the example is set?—I think so decidedly; I think that they repose very great confidence in good and upright men.

7202. You think, in fact, that in all cases where the natives are treated with respect, and are honestly dealt with, Europeans may acquire great influence over them?—I think they may acquire very great influence over them; the natives no doubt have a great many defects in their character, and amongst others they are very suspicious; that is a thing that has grown up with them during hundreds of years; they do not always understand even those who are striving to do them good; but where they have confidence, Englishmen may do a great deal with them.

7203. You have spoken of the pensioners as a class not being very temperate in their habits?—Yes, I have.

7204. Is it not in your opinion owing to that intemperance that their health is so bad?—I should think it was owing a good deal to intemperance. But they are also exposed to all the evils of the climate; they live in the hot plains in the four or five towns I have mentioned; they have no occupation whatever; and that is why I formed the opinion that it would be a great benefit to them if they were placed in hill stations, where they could look after gardens and rear vegetables and flowers, and turn their time to good account.

7205. Are the pensioners generally brutish in their manner?—Brutish is too strong a term; I think they are frequently very low and degraded.

7206. Do they intermarry with the natives?—Many of them do. I remember seeing a large community of them at Cuddalore, who had chiefly married native women; I know the fact in this way, because I attended the Tamil service at which there was a very large gathering of the wives of these pensioners.

7207. Is there any difficulty in rearing children born in those villages?—I cannot say what practical difficulty there is in it: but the climate is against them.

7208. You do not know whether they depreciate in physical energy?—I do not know for certain; but I should think they did. East Indian children are not so strong as English boys and girls.

7209. You have given us an account of the statement of the ryots with reference to their condition and their complaints; have the missionaries inquired into the truth of those statements?—I know that they have in many cases. I have myself

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myself done so on visits to the districts in which these ryots live, and I have never gone into the Krishnaghur district without hearing stories confirmatory of their statement, with particular instances of name, time, and place.

7210. As far as your inquiry has extended, have you reason to think that their statements are in the main founded in truth?—I think so.

7211. Mr. *Campbell.*] Had you any opportunity of testing them, or of comparing them with the statements made by the planters themselves?—I have spoken to planters in the Krishnaghur district upon the subject, and I know that many of them have acknowledged to me that some of these evils do exist; I know that many would very much like to get free of them; but I think that the system is to some extent forced upon them; they are obliged to take the law into their own hands, owing to the want of good tribunals where the complaints of both parties can be fairly and justly settled.

7212. Mr. *Smith.*] What is the condition of the natives in those districts where European planters are settled, and in those districts where there is no settlement of Europeans?—I have not had such opportunities of seeing both kinds with my own eyes as to be able to draw any distinct contrast.

7213. You do not know whether the settlement of European planters improves the condition of the people or not?—I could form an opinion only; but I could not speak from facts.

7214. What is your opinion?—I think that where the planter forces any kind of cultivation upon the people which they are unwilling to adopt, there will be so many difficulties in the way that it will be impossible for a peasant to flourish; but I know that there are planters in some parts of Bengal who treat the ryots with great justice, and that the ryots are getting on exceedingly well there. I have heard cases of that kind described where the rate of wages has been steadily rising, and the people are beginning to lay by a little, to get more comfort in their houses, and to buy for their wives a few silver ornaments, and so on; they do that where they are treated fairly, and are allowed to enjoy their gain.

7215. On the whole, seeing that the rate of wages is increasing in those parts of the country where European settlement has obtained, would you not infer that European settlement has been a great benefit to the population?—It would be so if the peasantry were allowed to enjoy the full benefit of it; but under the zemindary system, where the rates vary so much, and the zemindar has power to increase his rates, the effect, as I hear from evidence from all parts of the country, is to make the zemindar get almost all the benefit. I speak particularly of the native zemindar; but the tendency of the system is to put all the benefit into the hands of the zemindar, and not into the hands of the ryot.

7216. But notwithstanding that, the rate of wages has increased?—Yes.

7217. Sir *Erskine Perry.*] Is it the fact that the rate of wages has increased? —That is my belief: but I do not think that the people get the benefit of it, because it is taken out of them when they come to pay their rents, by abwabs and other illegal exactions.

7218. You say that their condition is improved, and that their wives are able to supply themselves with silver ornaments?—That is the exception, and only happens in the few cases where the ryots are treated fairly; on the whole, the complaint is that the people are not able to enjoy the full benefit.

7219. Mr. *Smith.*] We will suppose that the tenure of land was changed from the zemindary to the ryotwarry system, and that the Government levied a fixed tax instead of leaving it to the zemindars to charge what they pleased; do you think that that would be an advantage to the ryots?—I do not think that it would be an advantage; I don't object to the zemindary system; but we need a check that will prevent all the benefit from going into the hands of the zemindar himself.

7220. What check would you suggest?—The kind of check which Mr. Bird put upon the zemindary system in Upper India seems to have told in favour of the ryots. He provided a regulation that a zemindar should never be allowed to charge as rent for land more than the ordinary pergunna rate to be fixed by the general consent of the people; we have no efficient check of that kind in Bengal.

7221. How would you enforce such a regulation as that to which you refer? Can it not be enforced by law?—There is no law actually in the North Western provinces; I believe it is only a regulation adopted by the collectors.

7222. The custom of the country is, that you should only charge the pergunna rate?—Yes, but the native zemindars constantly set it aside; it ought to be upheld by law.

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7223. Mr. *Campbell.*] You say that the advantages derived by the ryots from increased wages are neutralised by that increase being taken from him in other modes?—Yes, in some cases the zemindar has power to change the rents from time to time; he also adds on abwabs, or illegal cesses of many kinds, that have no limit.

7224. What has the planter to do with that?—The planter himself often is a zemindar; but although it may not be taken by the planter himself, it may be taken by his underlings, as the ryots themselves complain in that statement.

7225. Mr. *Smith.*] Do you think that the public press is indispensable in India for the security of the natives as well as for the security of Europeans?—I think it is indispensable for all classes.

7226. You deprecate any interference with the liberty of the press in India?—Yes, as a general rule.

7227. Do you think that the liberty of the press is quite as beneficial to the natives as it is to the Europeans?—I think it can be made so. The natives have the opportunity of keeping up a press of their own; we have newspapers at Calcutta which advocate the interests of the natives, as their special aim.

7228. When you say you are in favour of liberty of the press, are you in favour of the liberty of the native press?—There may be different opinions upon that point. I think that of late years the native press has been remarkably free; in fact, it has gone beyond the bounds of propriety, and has abused its liberty very much.

7229. Would you propose that there should be some restriction placed upon the native press, while the English press should be left free?—I think that the English press should be left free. How the evil should be corrected in the native press I am not prepared to say; it is a difficult question; it would be difficult to put a restraint upon it, but I think it ought to be restrained.

7230. Mr. *Lowe.*] What are the evils of the native press of which you speak in general terms?—They misrepresent the Government, and sometimes advocate rebellious sentiments; in some of the papers they have preached rebellion.

7231. Does the native press give way to attacks on personal character?—I have heard of instances in which it has done so.

7232. Upon the whole, do you consider that the English press has been well conducted or not?—The English press, no doubt, has many defects.

7233. What are they?—I think, for instance, that in Calcutta the daily papers are poorly written, though very expensive, and that they are very careless as to what they publish as statements of fact or news. I think that they admit a great many attacks on individuals, in the form of letters, which are quite unjustifiable.

7234. A great many personal libels, in fact?—Yes, written in the form of letters.

7235. Do you think that their tone, with regard to the natives, has been objectionable?—I cannot say that, upon the whole, it has been so.

7236. Do you think that their articles are written in a style to alarm the natives in any way?—I do not think so.

7237. Do you not think that they were, during the course of the late rebellion?—I do not think so.

7238. You do not think that the Government was right in putting a check upon the English press?—No; I quite disapprove of it; I think it was very unjust to us all, and quite unnecessary.

7239. You think that the press should be left entirely free?—It is difficult to say what should be done with the native press; but as regards the English press, I think it should be left free.

7240. Did you see any probability of its improving?—I think so; I think that the more numerous the English are in India the more likely we are to have the press improved.

7241. Are actions for libel frequent in India?—They are not frequent; there have been very few of late years, I think.

7242. Sir *Erskine Perry.*] Should you say that the attacks on private character, and observations as to private life, are frequent in the Indian press, taking the best conducted journal in the presidency?—Not as regards private life, but as regards allusions to individuals.

7243. In their official capacity?—Yes.

7244. Which is the proper office for the press?—Yes, if kept within due bounds.

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7245. Do you not think it may be said with truth that the Indian press, as a body, is remarkably free from observations against private life and attacks on private character?—I think so.

7246 Remarkably so?—Yes, decidedly.

7247. Do you think that they offer a favourable contrast to some of the newspapers we have known in England within the last 30 years?—Do you mean such as "The Satirist?"

7248. Yes, and "The John Bull."—Yes; we have nothing of that kind in India.

7249. You would say that the Indian press is remarkably free from attacks of that sort, would you not?—I think that is really the case.

7250. They lay about them freely, and attack people without scruple in their official capacity?—Yes, but I think they are very careless in publishing statements as to individuals, and as to public matters, without sufficiently inquiring whether the statements are properly attested.

7251. Is not the defect of the Indian press chiefly that they advocate, nearly exclusively, English interests?—They have done it pretty exclusively. I think that, on the whole, the English press do not sufficiently advocate the rights and interests of the natives.

7252. Their readers and subscribers are nearly all taken from the English population, are they not?—Yes.

7253. And from the official classes?—In Calcutta we have now a very large population that is not official; and, in fact, I think it is the non-official classes who support the papers in Calcutta.

7254. That being so, the proprietors of those papers seek, I suppose, as proprietors of newspapers in all parts of the world do, to please those who are their subscribers?—Yes, no doubt they cater to their taste.

7255. In Bombay, I believe it was the case that attacks in the native press on private character were very frequent; are you aware of that?—I have not heard.

7256. In Calcutta were attacks in the native press on private character frequent?—I cannot say whether they were frequent or not; I have heard of such things, but I only read the Bengali newspapers occasionally.

7257. Do you not know it to be the fact that the native press, which does not come generally into the hands of Europeans, has been made the organ of very seditious and inflammatory attacks on the Government?—Yes, I believe it has.

7258. And it being the case, the public vigilance not being present to put down such writings, do you not think it necessary that the attention of the Government should be drawn to such publications?—Yes; in native society generally there is not such a healthy tone towards the Government as there is among the Europeans.

7259. With respect to the zemindary system of Bengal, your experience would lead you to approve of what they call perpetual settlement, would it not?—Yes, I think that it has been a very great benefit to the country in many respects.

7260. Are the evils attributable to the present system removed from this, that the interests of the cultivator or ryot have not been sufficiently attended to?—Yes, I think that that is the course that the evils have taken. The law has defended the right of the zemindar in many ways; there are special enactments benefiting the zemindars, while there are scarcely any benefiting the ryots.

7261. Is it not the fact that in the time of Lord Cornwallis the rights of the ryot to cultivate the ground were not sufficiently known and understood by Europeans?—No; there were such peculiarities in the mode in which these rights are distributed, that for many years Europeans never came to understand them. I think Mr. Bird says, in the North Western Provinces he studied the system for 15 years before he found that he had got the key to the whole.

7262. But now that the rights of the ryots to cultivate land so long as they pay the assessment are thoroughly understood, it would be competent to Government to frame regulations to recognise those rights, would it not?—Yes; and Mr. Currie recently introduced a Bill into the Legislative Council having such an object in view.

7263. Are you of opinion that the zemindary system is better for the improvement of India than the legal system introduced in the north-west?—I think so, on the whole; I think that the natives themselves seem to prefer it; and I think that the tendency of things in the village system has been downwards with respect to

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to the people themselves; whereas the zemindary system does tend to build up one class at all events.

7264. Do you not think, from theory as well as from practical knowledge of life in every country, that it is desirable to have a class of landowners to which the class of cultivators may aspire to rise by industry?—I quite think so.

7265. And do you not think that a great element in the improvement of the country itself, is the existence of a middle class between the cultivator and the Government?—I think so.

7266. Does experience tend to show that where those classes exist the Government have had less difficulty than they have had in other parts?—Yes, I think that Bengal illustrates the advantage you speak of, where the zemindary system exists in the strongest form.

7267. Perhaps one of the most useful lessons which we have learnt from the late rebellion has been that the land-owning class is really the class on which the Government may especially rely for support?—Yes, I quite think so.

7268. You are a good Bengalee scholar, I suppose?—I speak it pretty well.

7269. To the inhabitants of Bengal, Hindostanee is not intelligible, is it?—Not to the common people. If you go into the villages the country people do not understand Hindostanee at all, but you will always come across some one man in a village who does speak it.

7270. That would be a small per-centage, would it not?—Yes, when you get among the rural population.

7271. Therefore in courts of justice, where Hindostanee is the language of business, the bulk of the people in court do not understand the speeches of the vakeels (if they do make speeches), or the statement of a judge if he speaks in Hindostanee?—Very few will understand.

7272. Mr. *Willoughby.*] Is Hindostanee the language of the courts?—To a very great extent it is; but in Bengal all official papers are in Bengalee, but the Bengalee is so interlarded with the technical terms of law, that it is difficult for any person who does not know them all to understand what is being read. The verbs are Bengalee, but the law terms are Hindostanee; they are Persian terms in fact; the Persian terms come down from the old time when Persian was the official language of the courts.

7273. Sir *Erskine Perry.*] You have been in Ceylon, have you not?—Yes.

7274. And are you acquainted with the system of judicature there?—Yes, I heard of it, particularly from one of the judges.

7275. You are aware, are you not, that the English language is the language of the courts throughout the island?—Yes, with an interpreter in each court.

7276. Are you aware whether that system gives satisfaction or not?—It gives very great satisfaction; all classes seem to be very much pleased with it; they seem to think it answers very well.

7277. Do you think it would be better where foreigners are administering justice in a country like India, that the judge should administer that system in the language with which he is best acquainted, with a system of interpreters to explain everything that is said?—Yes, and I have been thinking so much more of late years than I formerly did; I think that if we had a very large increase of English judges or English judicial officers of all grades, even with English as the language of the court, and an official interpreter, with a court in which through the English language the officer really held the decision of all suits almost entirely in his own hands, that such courts would be an immense blessing to the country.

7278. It has been stated by some gentlemen here who know the natives very well, that to administer the law in the English language by Englishmen would be extremely distasteful to the natives, and would be rejected by them, if they could, with something like indignation; what is your opinion upon that subject?—I do not think they would; the natives have a very great respect for the English language merely as a language, considering it is spoken by so many people. The natives in Bengal and India generally have not got to the feeling which the people in Ceylon have; in Ceylon they have been very much more impressed, from the old Dutch time, with the power and influence of foreigners over them; and the old Dutch influence is shown in many ways down to the present time. Even with respect to Christianity, the people there have quite a different feeling with regard to it from what they have in India; and I am not aware that the Bengalee or Hindostanee would look on English in the courts with the same feelings that the Ceylonese would.

7279. Do you not think that the Hindoo is very acute, and that what he chiefly values in a court of justice is the justice of the decision?—Certainly.

7280. Are they not very clever in ascertaining whether a decision is just or not?—Yes.

7281. If an English judge, administering justice in Bengal, were seen to be depending on his own lights and upon the evidence before him, would he not be likely to give more satisfaction than a judge administering justice in Bengalee, and having a serishtadar or peshkar as a go-between between him and the suitor?—I think so, I think that the influence of these serishtadars and peshkars does very much to destroy the existence of justice in the courts.

7282. Do you not think that a summary system of justice might be established with interpreters in court which would entirely dispense with the necessity for these sheristadars?—Yes, I think it might be tried.

7283. You know the system of the Small Cause Court in Calcutta?—Yes.

7284. That is exclusively a native court, is it not?—Chiefly, but not exclusively.

7285. The great bulk of the people who come there are persons unacquainted with the English language, are they not?—The majority of them are.

7286. Yet that court gives great satisfaction, does it not?—Yes, very great.

7287. Would not that, in your opinion, be a good model for courts in the interior of Bengal?—I think so. Many persons have advocated that idea for many years.

7288. You would not agree with gentlemen who say that such a system would cause much dissatisfaction among the natives?—No, I do not think it would give dissatisfaction at all. It would be very difficult to establish it, because it requires so large a number of European officers.

7289. The same salaries which you give to the Civil Service, 3,000 rupees a month, would give you at least two competent Europeans, would it not?—Yes.

7290. *Chairman.*] Would you be of opinion that the attempt to introduce English into the courts of law would create a rebellion in India?—No, the natives would not rebel on that account. The natives have a great regard for the English language, and they are wishing to learn it; they have a very great respect for it.

7291. Mr. *Willoughby.*] You have alluded to three attempts at colonization, and you have spoken of missions that were tried and which failed. May I ask whether the Government and the Government authorities were favourable to those attempts?—I suppose that the Government knew nothing about them.

7292. How did they obtain the location?—I do not know how Mr. Start endeavoured to get the land; but I presume he did so from local proprietors.

7293. You are not aware of any opposition that they received?—No, I never heard of the Government interfering in the case at all.

7294. Is not intemperance the besetting sin of the soldiers in India?—I should think it is their chief sin, particularly among the poor pensioners.

7295. And the lower order of Europeans in India?—Yes; the railway companies experience great trouble and difficulty with their men.

7296. They may get any quantity of spirits they like for a trifle, and they are unable to resist the temptation?—That is the case to a great extent.

7297. Do you not think that that is a great obstacle to any extensive colonization by Europeans?—I think so.

7298. Mr. *Campbell.*] What class of Europeans do you particularly refer to?—Soldiers, pensioners, and the lower class of Europeans; engine-drivers, plate-layers, superintending carpenters, blacksmiths, and so on.

7299. Mr. *Willoughby.*] You have alluded to the average length of life of 250 missionaries, as being 20 years' service in India?—Yes.

7300. In your calculations did you ascertain what was the mortality amongst that number?—I found that, on the average, they were able to render a 20 years' service.

7301. Sir *Erskine Perry.*] Do you mean that they died after 20 years' service, or that they came home?—The calculation includes both at once; the mortality I did not take separately, except in the case of the Tranquebar missionaries, where it amounted to 22 years.

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7302. Mr. *Willoughby.*] You have alluded to one of the obstacles in the way of colonization being the system of land tenures in India, and you say that in Ceylon land is obtainable in fee, but that it is not so in India; how would you remedy that evil?—By permission to redeem the land tax.

7303. But that would not get rid of the ryots who have certain rights in the land, the right of occupying, or a possessory right; you cannot oust a ryot as long as he pays his rent?—The zemindars do oust them to an immense extent.

7304. But it is a difficulty, is it not?—There is this, that when an estate is sold all the under tenures, *ipso facto*, become worth nothing.

7305. That used to be the law, but it is not the law now. We have it in evidence that the putnahs are preserved now. The reason of the estates being sold was to prevent fraudulent transfers; that was the object in view, was it not?—Yes.

7306. You have alluded to the evils of the police; can you state any mode by which these evils could, in your opinion, be cured?—I think that the best way would be to have a kind of military police, a police under military organisation. They are at present under no organisation at all.

7307. But measures are in progress for an improvement in the police in Bengal, are they not, since Mr. Halliday's minute?—I never heard of any.

7308. When did you leave India?—In March last. The first attempt made at improvement was in Captain Rattray's Sikh police, in the Sonthal country.

7309. Do not the authorities make the best of the materials at their command in regard to the police?—I do not think they do; for instance, the majority of the police in Bengal are the common village chokeedars, who are just perfectly worthless. There is a superior kind of police, which we have in Calcutta, who are almost all Hindoostanies from up the country.

7310. Is not one great obstacle that the zemindars will not pay an extra cess for the police?—Yes, but the recommendation has been to take the same cess that they now pay in reality, but to apply it in a different manner; to get rid of the chokeedars, and to pay the police.

7311. But the zemindars object to that, do they not?—They have put obstacles in the way, I know.

7312. You have stated that the Government assessment in Bengal is very high; do you speak from your own personal knowledge?—No, from what I have read in Mr. Robinson's "Land Revenue of British India."

7313. We have had in evidence from one of the planters that the average Government rent in Bengal is 1 *s.* 6 *d.* an acre, and that no part of the world is so lightly taxed; if that is the fact, you would not consider that a high assessment, would you?—No, not at all; I understood that the proportion was higher.

7314. You consider the forcing of the cultivation of indigo is the great complaint of the ryots?—Yes, against the indigo planters.

7315. And that the system of advances for planting indigo is vicious in this respect, that it prevents other people from coming into the market?—Yes, that is part of the system, and the advances are forced on the ryot against his will; after all, when advances of a certain rate, such as two rupees, are given to him, and the price of the seed is added, if he gets only ten bundles of indigo from a begah, and he only gets for those two rupees and eight annas, the expenses charged against him are greater than the value of the indigo.

7316. I gather from your evidence that it depends upon the character of the planters whether the ryots are benefited or not?—Very much; I may say that it depends entirely upon the man himself: English zemindars are more just than natives.

7317. There are some good and some bad, I suppose?—Yes.

7318. Besides the rent, do not the zemindars levy extra cesses called abwabs?—Yes, to a very large extent.

7319. And those swallow a large part of their extra gains in the way of increased wages, do they not?—Yes, for there is no limit to these exactions.

7320. You say that there are few actions for libel in India, is not that partly on account of the expense for prosecuting them?—I really cannot say; I never heard that advanced as a reason.

7321. Did you ever hear the difficulty of obtaining a verdict advanced as a reason?—No, I have not.

7322. Do not many natives read English newspapers?—Many do in Calcutta and the neighbourhood, and in the Presidency towns where English is extensively understood.*

7323. Is not the press of India generally antagonistic to the Government?—I do not think so; on some points it, of course, is in opposition to the Government, but I do not think that it is altogether antagonistic to it; I have before me the history of some newspapers which really seem to try always to praise the Government.

7324. Do you allude to the "Friend of India"?—No.

7325. That newspaper was remarkable, was it not, for writing on both sides of the question?—I do not think so, but I am not referring to that paper particularly.

7326. You are an advocate, as I understand for the administration of justice through the medium of the English language in the Mofussil courts?—Provided we have more European officers to preside over the courts who know the native languages.

7327. Would not the judge in that case be very dependant on the honesty of the interpreter?—He need not be so, if he studies the native languages.

7328. Do you think that in general their trustworthiness could be depended on?—I think it would be desirable that it should be checked by the judge's own knowledge.

7329. Mr. *Gregson.*] You have said, in answer to a question put to you by an Honourable Member of the Committee, that the pensioners are brutal in their conduct, do you apply that strong word to them generally?—I would rather say that they are persons of low habits; the word brutal occurred in the question which was put to me, and I think it is much too strong.

7330. You would qualify it?—I should not use the word myself; what I meant was, that they are persons generally of low habits.

7331. Not worse than pensioners in this country; there is nothing excessively bad in their conduct?—No, I did not mean to leave on the minds of the Committee any impression that there was.

7332. Have they the benefit of any religious superintendence?—Yes; at almost every station: I think that the Government in every case has placed a chaplain at the stations where the pensioners are located.

7333. You think, do you not, that the habits of intemperance among the troops and pensioners are not worse than they are among the same class of persons in this country?—Perhaps their idle habits and want of all occupation may make them even worse.

7334. Mr. *Willoughby.*] But they have greater facilities for indulging in such habits in India, have they not?—Yes; and I think that their idleness also very much conduces to it.

7335. Mr. *Gregson.*] You have spoken of the converts to Christianity as real Christians and nominal Christians; do many of the natives subject themselves to ridicule from the Hindoos in consequence of the licence given to them as Christians?—I do not quite understand the question, as they have no special licence.

7336. Do many of the converts subject themselves to the ridicule of the Hindoos by their conduct, after they have become Christians?—It depends on what class you refer to, whether you refer to those who make a more decided profession, or to those who are merely nominal Christians. It is a matter of very great regret that many of the nominal Christians have been a scandal to natives; but on the other hand, there are many native Christians who have been exceedingly consistent, whom the Hindoos themselves acknowledge to be men of great principle, and whom they very much respect and esteem. I have known many instances in which such native Christians have been resorted to most willingly, both by the Hindoo and Mussulman population; they have come to them, and consulted them as their advisers and friends; they say, "This is an honest and upright man, and we can trust him." That is a very common case with native Christians, who are employed as catechists and school teachers; generally we endeavour to select for their office men of the best character; and there are hundreds of instances in which such men are very much respected by the Hindoo population.

7337. Are not the natives often surprised, and to some extent scandalised, by the conduct of these nominal Christians?—Some of them are no doubt; but I do not think that that applies generally to our Christian population.

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7338. They are of a very low class generally, are they not?—In some parts of the country; in Krishnaghur and other places they are; but I have myself baptized several in Calcutta belonging to wealthy families, and against whom nothing could be said on any ground. The same thing also has occurred in numerous instances in the Free Church and other missions, in all parts of India.

7339. Mr. *Willoughby.*] Are you aware that when an estate is sold the under-tenures are non-respected?—I was not aware of that fact.

Jovis, 8° *die Julii,* 1858.

MEMBERS PRESENT.

Mr. William Vansittart.
Mr. Willoughby.
Mr. Villiers.
Mr. J. B. Smith.
Sir Erskine Perry.
Mr. Mangles.
Mr. Lowe.
Mr. Gregson.
Mr. Campbell.
Mr. Kinnaird.
Mr. De Vere.

WILLIAM EWART, Esq., in the Chair.

The Rev. *Joseph Mullens,* called in; and further Examined.

Rev. *J. Mullens.*

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7340. *Chairman.*] I believe you wish to make some statement with respect to the European population of Bengal?—I merely wish to complete an answer which I gave to a question put to me by Mr. Kinnaird on Tuesday last, as to the progress of settlement. The question which was put to me was, "Can you give the Committee any information as to the progress of settlement among Europeans in India?" This is the answer which I would desire to give to that question: At first, the settlement of Englishmen in the country took place but slowly; it has advanced, however, somewhat rapidly of late years. The returns of 1852 set down the number of extra-official Europeans beyond the three Presidency towns in all India at 317. But this statement is very much below the mark. I have no good information of a late date respecting Bombay and Madras; but in the Presidency of Bengal, before the rebellion broke out, the case stood thus: Of indigo factories, there were 320 concerns, about 900 factories and 420 managers and assistants. Then as to the coal, there were eight concerns, 18 collieries and 16 managers and engineers. As to rum distilleries, there were six managers. With regard to silk filatures, there are 25 concerns and factories, and 35 managers and assistants. As to sugar, there were seven concerns; and, as to tea, there were 37 plantations and 55 managers and assistants. Excluding the English regiments, and the officers of native regiments not on staff employ (the latter being about 1,000 in number) the English and East Indian population in the country parts of the Presidency amounts to 5,400 grown men in both public and private employ. Of these, 1,950 are not connected with the Government. They are principally missionaries, English zemindars and planters; and engineers, contractors and superintendents on the railway. They are all grown men, but as many of them are not married, they would represent, probably, a population of above 6,000 persons, unconnected with Government. The whole English population in the Mofussil would, at the same rate, amount to about 17,000 persons. The English and East Indian inhabitants of Calcutta itself, in all kinds of employ, amount to 4,256, and represent a population of about 16,000 persons. Deducting the English regiments, therefore, we had, in the Presidency of Bengal, before the mutiny, an English population of about 34,000 persons. The value of land now held by Europeans is reckoned by the Planters' Association at four millions sterling. In Ceylon the population is thus described in the latest returns: whites, military, 1,216 males and 206 females, in all 1,422; non-military, 2,704 males and 2,262 females, in all 4,966; making a total of 6,388. Of coffee estates there were 404; of cinnamon estates, 56; of cocoa-nut estates,

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166. Adult Englishmen, not belonging to the army, navy, or civil service, 600. I was also asked another question by Mr. Kinnaird, as to whether we missionaries had had anything to do with bringing memorials before the Government; and I said that one in which we took particular interest was, a petition to the Legislative Council on Mr. Grant's Bill for improving the law relating to the sales of land for arrears of revenue in the Presidency of Bengal. (*The Witness handed in the petition referred to*).

Vide Appendix.

7341. Mr. *Vansittart.*] You say you have been 14 years in India as a missionary?—Yes; 14 years and three months.

7342. The whole time in the Bengal Presidency?—Except during one visit to the Madras Presidency.

7343. How many missionaries do you suppose there are in Bengal?—In the province of Bengal I think we have 105 missionaries; and in all India, 450.

7344. Your body have been accused of interfering with the administration of justice in India; is that the case?—I am not aware of any accusation of the kind having been made.

7345. In fact, you have no object to serve in any such interference?—No; we take an interest in questions connected with the administration of justice, and sometimes, when we think it would be an advantage, especially to the poorer natives, missionaries have presented petitions to the Legislative Council and to the other authorities, such as the petition laid before The House last year.

7346. Your body are generally on very good terms, are they not, with the civilians?—I believe they are, generally.

7347. Is it not the case that, at the majority of the stations, the civilians, planters, and others, with their families, have no means of attending Divine service, except by attending the chapels of the missionaries?—Not at the majority of stations; but there are many stations in India where they have only a missionary chapel to attend; that applies to some of the smaller stations.

7348. I think that, at my old station, at Monghyr, there were two missionaries? —Yes.

7349. Messrs. Parsons and Lawrence, are they still there?—Mr. Parsons has removed to Agra.

7350. In arguing and discussing theological subjects with the natives, do you find any difference between the Hindoos and Mahomedans?—Yes.

7351. Do you find that the Hindoos are more patient and more anxious to discuss such subjects with you?—Yes; and the Hindoos are much more open to receive the arguments that missionaries present to them respecting matters of religion.

7352. To what class of Hindoos do you refer?—To all classes.

John Warden, Esq., called in; and further Examined.

J. Warden, Esq.

7353. Mr. *Willoughby.*] IN answer to Question No. 6029, you say: "I should imagine that the race of Europeans could be continued if the children were brought up on the hills, in which there would be no difficulty;" what hills do you refer to?—I mention, afterwards, the plateau in the neighbourhood of the Mahabuleshwur Hills.

7354. Can you specify the precise part?—No; but it is perfectly well known.

7355. Do you know the extent of it?—No, I do not.

7356. Has it been tried?—It has not been tried on an extensive scale, but, if I remember rightly, some individuals have been there.

7357. You cannot say, of course, that it would do for the settlement of Europeans on an extensive scale?—There are many other places, as for instance Porrundhur and Singurh, which are perfectly habitable.

7358. Are not those places more fit for the occasional residence of Europeans; they would not do for colonists?—No.

7359. You have alluded to soldiers at Poonah being as healthy as soldiers at a review in Hyde Park; are they not kept under military discipline during the heat of the day?—I think that that is only imperfectly carried out.

7360. But are there not regulations applied to them which are not applied to Europeans generally?—It may be so in hot weather, but not at other times of the year.

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7361. They are under some restrictions, are they not?—They may be, but I have no personal knowledge on the subject.

7362. You say that you think the more healthy parts of the Mahabuleshwur hills might be inhabited by soldiers and their children; are they not abandoned during the rainy season by all Europeans who can get away from them?—It should be understood that in all the answers I have given, I allude to the plateau to which I have referred.

7363. You have alluded to Mr. Elphinstone's proclamation, in which it is promised that private rights shall be treated with generosity. That proclamation was published, was it not, by the order of Parliament, together with the instructions issued to the Collectors?—Yes; I have it here.

7364. The instructions are dated 2d April 1818?—Yes.

7365. If you refer to the instructions you will find this paragraph: "All lands held free of revenue are to be allowed to remain so, and to be left with their present proprietors. They must, however, be called on, hereafter, to show their sunnuds, or, otherwise, prove their title;" that shows that Mr. Elphinstone contemplated an investigation into titles?—No doubt he might have done so, but he would not have deferred doing it until prescriptive titles had been established. The objection I take to the Enam Commission is, that time alone had established prescriptive titles, and that whatever was done was done too late; that is my objection to the Enam Commission. The precise words of Mr. Elphinstone's proclamation are, "All wuttuns and enams (hereditary lands), wurshasuns (annual stipends), and all religious and charitable establishments will be protected." The Enam Commission is the opposite of protection.

7366. You have spoken, in your previous evidence, of Act No. XI, of 1852, for adjudicating titles to enams. The titles must, I presume, rest either on written grants or on prescription?—Yes.

7367. Are you aware that, under Rule No. 1 of that Act, all titles that have been already confirmed by British authority are to be so continued?—I am aware of it.

7368. You have spoken of the strong terms used in the title-deeds of enamdars to describe the extent of the rights conferred by them; does not Rule 2 of the Act declare "that any land held under a sunnud, declaring it to be hereditary, shall be so continued according to the terms of the sunnud"?—It does.

7369. You have objected to the term of 60 years' possession required, to constitute a hereditary title; are you aware that the Bombay Government originally fixed 100 years as the term of prescription, and that it was reduced to 60 years by the Court of Directors?—No; but I am aware of another fact, that the 60 years was reduced to 30 years.

7370. You have stated in several places, and particularly in your answers to Questions 6138 and 6139, that the *onus probandi* is thrown on the landowner; how is this statement consistent with provisions one and two of Rule 4, which declare that "the authorised possession contemplated by the rules, does not involve the necessity of proving any specific authority from, or recognition by the Government or paramount power;" and further, that "if there be not evidence to disprove a claimant's assertion, that his holding has been indisputably enjoyed for the number of years requisite to fulfil the conditions" of the law, "his prescriptive right shall be admitted"?—But the Enam Commissioners call upon them to prove their titles. I say that the *onus probandi*, in the proceedings before the Enam Commission, is thrown on the claimant.

7371. Do you mean to say that the persons entrusted with these inquiries, act contrary to the provisions of the law?—No; I am not prepared to say that.

7372. Although the provision is, that if there be not evidence to disprove a claimant's assertion, that his holding has been indisputably enjoyed for the number of years requisite to fulfil the conditions of the law, his prescriptive right shall be admitted; you are of opinion that the *onus probandi* rests upon the claimant?—Certainly.

7373. Mr. *Mangles*.] I understood you to say in your examination in chief, that the law threw the *onus probandi* on the party in possession?—Yes; and so I still say; I say that the Government proves nothing; Government calls upon the claimant to prove his title. He says, "I have no sunnud, but I appeal to the district officer's accounts." Then when those accounts are produced, that is his proof, and not the Government's proof.

7374. The provision is, that if there be not evidence to disprove a claimant's assertion that his holding has been undisputably enjoyed for the number of years requisite to fulfil the condition of the law, his prescriptive right shall be admitted; that is, if the Government have no evidence, they shall take the assertion of the enamdar; they are to take his assertion if there be not evidence forthcoming to disprove what he says?—What the claimant says.

7375. Yes; if you have not evidence to disprove his claim you must admit the claim; do you say that throws the *onus probandi* on the claimant?—If it were not thrown on him the Government would go into court as plaintiffs, and they would disprove his title. The East India Company come in and say, "We call on this man to prove his title;" he goes through his proof first, and then comes the defence or answer.

7376. Notwithstanding the provisions which have been read to you, you still adhere to the opinion you have expressed, that the *onus probandi* rests on the enamdar?—Certainly I do; and anybody who understands the forms of procedure in courts of justice must know that it is so.

7377. Mr. *Villiers*.] The burthen of proof is thrown upon the defendant; and if there is no evidence to disprove what he has proved, he is then entitled to keep possession?—Yes.

7378. Mr. *Smith*.] What is the practice?—The practice is to call upon him to prove his title, and if that is not throwing the *onus probandi* on him, I do not know what *onus probandi* means.

7379. If he fails to prove his title he is disinherited?—Yes; he is called into court and required to prove his title, then he gives the best proof of it he can. In the case contemplated by Rule 4, which Mr. Willoughby has quoted, he comes into court and says that he has had the land for so many years, and if the Government have no evidence, that is, if they have not got a leg to stand on, then they give him his land; that is what it comes to.

7380. Sir *Erskine Perry*.] Have you looked at the 3d, 4th, and 5th clauses in Schedule (A.)?—The 3d clause is, "The Enam Commissioner or his assistants shall receive from the persons holding, or claiming to hold, land or any interest therein, exempt from the payment of revenue, statements explaining the nature of the title by which the lands or interests are so held, and shall take and record the evidence offered in support of such statements."

7381. Now read Rule 5, if you please?—" But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein, wholly or partially exempt as aforesaid, requiring him personally, or by his agent, to show his title; the notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands, or interest held, or claimed to be held exempt as aforesaid, to attend, either personally or by an authorised agent, at a specified place and within a specified period (which shall never be less than two months from the date of the notice being served), to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it; the notice shall further explain that a failure to comply with its terms will render the land, or the interest to which it relates, liable to attachment." It appears to me that beyond all doubt the *onus probandi* is upon the claimant; but upon that question the Committee will draw their own conclusion.

7382. Mr. *Willoughby*.] Is it not the rule, both by law and practice, to test all claims to hold enams by prescription by a reference to the records in the Peishwa's dufter or other authentic documents. If, for instance, a man claimed to hold a village free of assessment, on the ground that it had been so held for 60 years previously to our occupation of the country, would it not be incumbent on the adjudicating officer to prove from authentic documents that the holder of the village had paid revenue within the prescribed period, before the Enam Commissioner could give a decree against him; and, if the latter failed to produce such evidence, would he not be bound by law to admit the prescriptive right of the holder?—I imagine that, in this and every other case, the enamdar is bound to make the best case he can before the dufter or anything else is referred to; and then, if, on reference being made to the dufter, it is found to confirm what the man says, he will get his enam; and, if not, he will lose it; but still the initiative is throughout with the enamdar; the rule is to test it in the manner described in these sections of the Act, Rules 3, 4, and 5, of Schedule (B.); the dufter is the Enam Commissioner's evidence; the Enam Commissioner acts as judge; it is a court of justice now.

7383. Unless

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7383. Unless it is proved by the dufter that the land under inquiry has paid revenue within 60 years, the right would be admitted, would it not?—I do not know; I have no ground for saying that it would.

7384. Do you still consider, notwithstanding the question I have put to you above, that the *onus probandi* rests on the enamdar?—Certainly I do.

7385. Does not the law provide, that in all cases, except where land is held "by fraud recently committed," the resumption, that is, the assessment, shall not take place at least until the death of the existing occupant?—I believe it does.

7386. Sir *Erskine Perry*.] Just read, if you please, rule six in Schedule B., provision two?—"Land held as wholly exempt from payment of revenue, or on variable assessment, the possession of which is not continuable under the preceding rules, is to be resumed on the demise of the incumbent;" that is to say, if the man is unable to stand the test of Act 11, 1852 (for he must attempt to stand that test first), and go through all the hardships enforced by this Act; if the possession is not continuable under these rules, the Government say, "We will not take the property until the demise of the incumbent," but that does not affect the argument that Government have no right to take it at all.

7387. Do you know that in all the Presidencies the duty of asserting the right of the State to the revenue on lands held without due titles, was in the first instance thrown on the collectors?—It was so.

7388. In all the Presidencies?—I do not know any Presidency, except Bombay; as I have already said, that would have been quite right, and there would have been no objection to it if it had been done in time.

7389. Is it not the fact, that from the pressure of their other and ordinary duties, it was found impossible that the collectors could institute the investigations required for that purpose?—I have heard so.

7390. Are not the ordinary courts of justice too much overwhelmed with business to admit of their conducting these investigations in the form of regular suits?—That may or may not be the case; but even if it were so, it would have been very easy to have founded another court of justice for the adjudication of these titles, founded on recognised principles of justice, and carrying out the general provisions of the law.

7391. Was it not found necessary in Bengal, after a much greater lapse of time, after the country came under British rule, than has occurred in Bombay, to establish a special agency independent of the judicial and revenue authorities to conduct those inquiries and bring them to an issue?—I am not aware what was done in Bengal; but I repeat, that I should not have the least objection to an Enam Commission if it had been only founded as a court of justice, to be regulated by the existing laws, and by the principles of justice recognised and understood in the country.

7392. What lapse of time in fact occurred?—From 1817 to 1852.

7393. Mr. *Willoughby*.] Is it not the fact, that in the Southern Mahratta country, and to a greater or less extent in the Deccan, more than half the land was claimed as enam, and that the regular revenue authorities had neither the time nor the means to investigate the validity of the titles under which the company were made?—That appears to be nearly identical with a former question.

7394. Except that, I ask whether the claims did not amount to nearly half the revenue?—I am not aware; but, as I said in my original evidence, I do not consider that that could possibly affect the principles on which the claims should be adjudicated. I think that you must adjudicate on the recognised principles of justice.

7395. Was it not in consequence of these circumstances coming to the knowledge of the authorities that the Enam Commission was established; and are you aware that, after having acted for a time under instructions issued from time to time by the local government, the Court of Directors ordered that the inquiry should be placed on a legal footing, and that those instructions resulted in the enactment of Act 11, 1852?—I am not aware what the instructions of the Court of Directors were, but if they were such as they are suggested to have been, all I can say is, that their instructions were not carried out.

7396. You have referred, in your answer to Question No. 6135, to a letter from Jafur Ali, of Surat, relative to his claims to certain villages in the Surat zillah; you are, of course, aware that any claims which he may have to those villages which may have to be judicially decided must be adjudicated under the code

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code of 1827, and not under Act 11 of 1852?—I am aware of that; and the circumstance of the natives of the Deccan being excluded from that regulation is what I consider to be the great grievance under which they labour.

7397. Did not the distinction arise from the fact that the Deccan was a newly acquired country in 1818?—Some part of Guzzerat was ceded in 1815.

7398. Mr. Elphinstone himself excluded the Deccan from the code of 1827, I think?—Yes.

7399. Jafur Ali seems, from the letter quoted by you, to have apprehended that the Act of 1852 was about to be extended to that district, in suppression of the existing law; have you any reason to suppose that any such measure was ever contemplated by the Government of Bombay?—I remember we were told, when I was in Council, that such a measure would produce a rebellion in that country.

7400. Have you any reason to suppose that the Bombay Government ever contemplated extending Act 11 of 1852 to Guzzerat?—Yes.

7401. And superseding the code of 1827?—I think so. I speak entirely from recollection.

7402. Was it discussed in the Council?—I think it was.

7403. Sir *Erskine Perry.*] You protested against it, I suppose?—I said, "What kind of Commission can this be, if you cannot carry it into a new country, for fear of its causing a rebellion?"

7404. What was the meaning of saying that you could not carry the Enam Commission into Guzzerat without producing a rebellion?—That the people would become so discontented.

7405. Mr. *Willoughby.*] You state that the Return to the House of Commons, to which you refer in your answer to Question 6151, does not show how many cases had been decided in favour of the claimants; does it not, on the contrary, distinctly show that out of 6,913 cases decided, 2,948 had been "declared hereditary and permanent," and that 3,266 had been "declared continuable for one or more lives"?—I dare say you have quoted correctly.

7406. Then your former answer was incorrect?—In what way?

7407. You said that the Return did not show how many cases had been decided in favour of the claimants?—We could not find it the other day, at all events.

7408. There are 2,948 "declared hereditary or permanent"?—Yes.

7409. You stated the other day that this Return did not show how many cases had been decided in favour of the claimants?—It shows what are continued, but not what are resumed.

7410. Sir *Erskine Perry.*] You are asked this question: "Does it show how many of the 6,002 cases which were adjudicated were decided in favour of the claim, and how many against it?" and your answer was, "No, it does not state the number of those that have been confirmed, and those that have been resumed;" it appears that there are, altogether, 6,913 cases adjudicated upon?—Yes.

7411. And it does show how the adjudicated cases were disposed of, does it not?—It says they were assessable, but whether they were resumed, or what became of them, we do not know.

7412. Does not one line in the Return show those that are declared to be hereditary or permanent?—Yes; 2,948.

7413. Then, "Ditto, continuable for two or more lives, 132"?—Yes.

7414. "Ditto, to present incumbents, 3,134"?—Yes.

7415. "Ditto, at once assessable, 671"?—Yes.

7416. "Ditto, in Surinjam, 26"?—Yes.

7417. Then the total decisions are 6,913?—Yes. I do not find any mention of those that were resumed; the only approach at resumption is, "Ditto, at once assessable."

7418. Mr. *Villiers.*] Is the note at the bottom of the Return, purporting to give the estimated accession of revenue from these resumptions, official?—I imagine so; I find it in part of the Return made to the House.

7419. Mr. *Willoughby.*] Is it not the fact, that under Act 11 of 1852 the decision of enam cases rests almost, if not quite, exclusively on documentary evidence; the appeal from the Commissioners lies to the Government of Bombay; when an appeal is made, is not all the documentary evidence laid before the Government?—Yes.

7420. In

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7420. In your answer to Question 6074, you say that, "to crown the whole," particular cases are no longer reported to the Court of Directors?—Yes.

7421. Is it the practice in ordinary civil cases, decided under the law, to report the cases to the Court of Directors?—No, it is not; but there is an appeal to the Sudder Court, and then to the Queen in Council, and here there is none such; and there is not even a report to the Court of Directors.

7422. In the case of the Enam Commission, the officers are bound to decide according to the rules laid down in Act 11 of 1852, but their decisions are appealable only to the Government of Bombay. If any claimant consider himself aggrieved by such decision, do you not know that it is open to him to bring his case, by memorial, before the authorities in England?—I do; my argument was, that, having that, and that only, he had not what other people have, which is an appeal to law.

7423. You have spoken of the hardship inflicted on the enamdars from having their titles now inquired into, after so long a lapse of time since we acquired possession of the country; in what has this delay originated?—I fancy it arose from the vast number of claims to be inquired into, but I have no personal knowledge of it.

7424. Is it not the fact that the collectors are over-burdened with other duties, and that a special agency for the purpose was absolutely necessary?—I think so; I wish it to be distinctly understood that I have no objection to a commission; but it should be such a commission as we see in this country, a commission of judges who carry the rules of evidence with them, and by whom cases are adjudicated on recognised principles of justice; my objection to the Enam Commission is, that it is unlike other courts of justice; in other courts of justice it is not the practice to throw the *onus probandi* on the parties in possession; I think that the law, throwing the *onus probandi* on the party in possession, was most unjust

7425. Is it not the fact, that the Peishwa's dufter, at Poonah, the great repository of the records of the Maharatta Government, has been, until recently, in such a confused and disorganized condition, that it was impossible to obtain from it the information which a collector might require in regard to any particular tenure?—No; I would rather have had the dufter as Mr. Elphinstone left it, than as it may be now; for since those days it has been under a committee of Brahmins, and I would not trust to it now as I would then.

7426. Was the dufter arranged and adjusted in Mr. Elphinstone's time?—It was arranged to some extent, but after that it was given into the hands of a committee of Brahmins, before it got into the hands of the Enam Commissioners.

7427. Mr. *Mangles*.] Do you think that there is any danger of a fraud being committed by the Brahmins in favour of the Government?—It is impossible to say what a crafty Brahmin will do.

7428. Mr. *Willoughby*.] Would the Brahmins have any interest in committing a fraud in favour of the Government?—No; what I say is, that the dufter affords no longer the same trustworthy evidence that it did when Mr. Elphinstone left.

7429. You do not think that the arrangement and reorganization of the dufter, under the superintendence of the Enam Commission, is a beneficial arrangement?—What I mean to say is, that what is found in the dufter is not so trustworthy as it was when Mr. Elphinstone left the country.

7430. Have not the hereditary district officers, whose duty it was to supply the collector with information on all matters connected with alienated revenues, systematically misled him, by suppressing and falsification of accounts, and thereby led him, the only officer competent to judge of such matters previously to the appointment of the Enam Commission, to report favourably to Government on claims which, when properly examined, had not a shadow of evidence to support them?—I am not aware of that fact.

7431. Are you aware that by a most careful examination of the records in the Peishwa's dufter, and from other sources, it has been conclusively proved that the right to convey to an heir by adoption any interest in the public revenue was never conceded under the native governments, except by the consent of the ruling power previously obtained?—Yes; you must have the consent of the ruling power; but it was in every case granted on the payment of a nuzzer. The rule was always to grant it, the nuzzer being higher to adopted than to heirs of the body of the deceased.

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7432. Are you positive that adoption to enams are wholly disallowed by the Bombay Government?—I believe so.

7433. I am now going to read to you an extract from a letter from the Court of Directors to the Bombay Government, dated 9th September 1846, at which time, I believe, you were employed at Poonah?—On the 9th September 1846 I was in England.

7434. This is the passage to which I refer: "The principle on which we have of late proceeded is, that enams (as contradistinguished from surinjam) pass to heirs, as of right, without need of the assent of the paramount power, provided the adoption be regular, according to Hindoo law. In the case of the Nepanee Kur, though you had expressly refused your sanction to an adoption, yet, when made, it was held valid in respect to enams' lands, as well as to private property generally, and several other recent cases might be cited." That was the instruction given by the Court of Directors in September 1846?—I have no knowledge of that order of the Court of Directors.

7435. That must have been sent to your office?—In 1825, Mr. Chaplin, the Commissioner under whom I was, so far as I remember, wrote to the Government to know what they wished done in regard to adoptions, and an answer came from Mr. Elphinstone's Government to the effect, that adoptions, solemnised with the usual forms and sanctions (meaning the Hindoo law, I presume), should be recognised by the Government, and that even in the case of widows. This was the rule up to that time. But when discussions arose with respect to the Enam Commission, then the question of adoption was re-opened; and, to the best of my belief, adoptions are not allowed now. I wish it to be understood that I make no complaint against the Court of Directors for making these rules; the grievance that I complain of is, that the rules have been broken.

7436. Sir *Erskine Perry*.] Does that decision which has been read show that the rule had been broken?—Certainly it does. The Court of Directors' order does not touch the law; the Court of Directors have no power to send any instructions to India to affect the law. As I stated in my former examination, "The section enacts, that land uninterruptedly held exempt from assessment for 60 years before the introduction of the British Government, and then in the authorised position of a grandson in male descent of the original grantee, shall continue to be held so long as there shall be in existence any male heir, tracing his lineage through males only."

7437. That would include adoptions, which are not allowed?—That is a matter of opinion; if it can be shown that adoptions have been recognised by the Enam Commissioners, there is no complaint to be made; but that I believe will not be found to be the practice.

7438. You have spoken of Captain Cowper, the Enam Commissioner, as a captain of Native Infantry, a man under 30?—I am not aware of his age, of course.

7439. But you stated that in your evidence?—I do not remember it. You have the advantage of me with respect to my evidence, for I have not had an opportunity of reading it yet.

7440. Are you aware that Captain Cowper was a cadet of 1836?—Since I gave my evidence here I have referred to the "Bombay Army List," and found that the season of his appointment was 1836. I do not know whether it is the custom of the Court of Directors to appoint people before they are 16 years of age, or not. When I spoke of Captain Cowper, I did not allude so much to his age as to the special training which I thought was requisite for all judicial occupations.

7441. Were enams and jagheers saleable under the native governments?—As a rule, I should say they were not.

7442. Were not enams and jagheers considered to be personal grants; that is, grants from native governments to an individual, and the heirs of his body, for services performed, or as marks of favour from the prince?—I have got here a quotation from Mr. Elphinstone's History of India, in which he describes what enams are, much better than I could, and therefore, with the permission of the Committee, I will read it. He says: "Of lands held free of service or enams; other alienations are to temples or religious persons, or to meritorious servants, and to families. Though very numerous, they are generally of small extent, often single villages, sometimes only partial assignments on the Government share of a village, but in some cases also, especially religious grants, they form very large estates. Religious grants are always in perpetuity, and are seldom interfered with. A large proportion of the grants to individuals are also in perpetuity, and are regarded as among the most secure forms of private property; but the gradual increases of such instances of liberality, combined with the frequency of forged deeds of gift, sometimes induces the ruler to resume the grants of his predecessors, and to burden them with heavy taxes. When these are laid on transfers by sales, or even by succession, they are not thought unjust, but total resumption or the permanent levy of a fixed rate is regarded as oppressive."

7443. The passage which you have just read rather confirms the view suggested in my question, does it not; that enams and jagheers were considered to be personal grants, or grants from native governments to an individual and the heirs of his body for services performed, or as marks of favour from the prince?—Yes, and they are regarded as the most secure forms of title to private property.

7444. If enams and jagheers are given for services performed, or as marks of favour from the prince, is it reasonable to allow the enamdar to transfer his enam into the line of another family? Could the Dukes of Marlborough or Wellington sell or transfer Blenheim or Strathfieldsaye?—I do not consider that under the native governments enams were saleable.

7445. Cannot an enamdar now sell his own interest in his enam, this interest terminating, of course, when his own family becomes extinct?—When I said they were not saleable, I did not, of course, mean to say that a man might not sell his own interest.

7446. You are familiar with Mr. Elphinstone's report on the Deccan, are you not?—It is a long time since I have seen it.

7447. I daresay you recollect that, in his financial estimates, he relied upon the number of the settlements being only provisional and lapsing to Government; perhaps what I am alluding to will be more apparent if I read to you an extract from his report: "The nearest territory to this (the ceded districts) increased in eight years from 12 lacs of pagodas to 18, and without venturing to anticipate a similar augmentation here (the amount of which would be upwards of 27 lacs of rupees), we may fairly expect an addition of 10 lacs of rupees in 10 years, even supposing the districts now under Bombay to remain as they are. In this improvement I have not mentioned the falling in of jagheers, nor shall I, in the reductions, mention the expiring of pensions; yet these are funds from which a good deal may be expected. The amount of pecuniary pension and land held during pleasure will have proved enormous, but that is in reality one of the greatest advantages which this territory presents, since that mode of rewarding services has prevented the great alienations of land that would otherwise have taken place. In the ceded districts, the amount of revenue thus irretrievably lost to Government is equal to the amount that remains; here it is only a seventh or an eighth"?—Yes.

7448. It is clear, therefore, that Mr. Elphinstone contemplated extensive resumptions ultimately?—He may have done so, but not at so late a period as 1853, I think.

7449. You alluded in your former evidence to the qualifications of young men educated at the Elphinstone Institution and the Poonah College to act as pleaders in law courts in India; I believe that you formerly expressed the opinion that many young men educated at the Elphinstone Institution at Bombay, and at the Poonah College, were equal in acquirements and in powers of mind to men trained at the English Universities?—I did.

7450. Was your statement, that the young men educated at those institutions would be found qualified to act as pleaders, made on the supposition that the opinion just referred to was correct?—Yes.

7451. Are you not aware that the result of recent examinations, conducted by persons unconnected with the institutions in question, has shown that the knowledge of the young men brought up in them was merely superficial, and that, with few exceptions, even the best of the students failed to display any power of thought or reasoning?—Mr. Howard may have his opinion upon that subject, and I have mine. Nothing can alter my opinion of the acquirements of the young men with whom I associated, and that some of them were certainly equal to the Haileybury boys. I am sorry I did not bring with me some letters which I have received from them as a proof, at all events, of their knowledge of the English language.

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7452. You do not think that the conclusions which were drawn from an examination by an independent examiner are to be relied on?—Unless he had before him the same young men that I had in my mind when I said that to which you have referred, his conclusions do not affect mine.

7453. His report, of course, referred to those young men who were students at the Elphinstone Institution at the time he examined them?—His opinion cannot alter my own judgment with respect to the young men with whom I myself associated, and whose examinations I witnessed.

7454. Mr. *Mangles.*] Were they then examined by their own professors?—Yes.

7455. *Chairman.*] But you speak from your own knowledge of them?—Yes.

7456. Mr. *Willoughby.*] A different conclusion was arrived at when the examinations, instead of being conducted by the professors or superintendents of the college, were conducted by a person independent of the college, appointed for the purpose?—When the examinations were conducted by a person independent of the college, the results would probably be stated less *couleur de rose* than when conducted by the professors of the college; but that cannot alter my opinion of the young men I saw.

7457. Is the mere possession of a colloquial knowledge of English, or even the power of writing a letter in English with tolerable correctness, a proof of such powers of mind as are necessary to make an efficient pleader?—But the education is carried much further than that.

7458. But you will admit, will you not, that the mere possession of a colloquial knowledge of the English language, or even the power of writing a letter in English with tolerable correctness, is not of itself a sufficient indication of the possession of such powers of mind as are necessary to make an efficient pleader?—But the young men I speak of were very perfect English scholars, they could write as good English as I could, and better too, I daresay.

7459. Do you think that the glaring failure of the students brought to light at recent examinations was the result of defects in the systems of teaching, and that it did not arise from faults in the mental constitution of the natives of India, which would disqualify them from pursuits which require the exercise of the reasoning powers?—My own opinion of the natives is that their powers of mind are as great as those possessed by Europeans.

7460. Do you consider that a good knowledge of English, correct reasoning powers, and a knowledge of the law to be administered, are sufficient qualifications for a pleader, and that the possession of high moral principles is not also an indispensable requisite for the proper discharge of the duties of an advocate?—I certainly think that high moral principle also is necessary.

7461. Do you think that such a number of the young men educated at Bombay and Poonah are possessed of such a high tone of moral feeling and principle as would enable a class of pleaders to be formed, with the necessary qualifications in this respect?—Certainly; I think that their high moral principles will develope themselves day by day, as it has done for some time.

7462. You alluded to the regulation by which, in the Deccan, enamdars were unable to sue the Company in courts of justice; who made that law?—Mr. Elphinstone.

7463. Was not the distinction made because the Deccan was a newly conquered territory?—Certainly; but part of Guzzerat was ceded only two years before the Deccan was conquered.

7464. You have talked about the Peishwa abdicating in favour of the British Government; did he not first of all commence war?—Yes; but he ultimately abdicated.

7465. He submitted to terms?—Yes.

7466. You have alluded to the inefficiency of the officers appointed to the Enam Commission, and you say they were not judges of Her Majesty's supreme courts; are you an advocate of entrusting inquiries of this kind into titles to land to judges of Her Majesty's courts?—Certainly; I should not be afraid to entrust any question to the decision of a judge of Her Majesty's courts.

7467. Who told you, that introducing the Act 11 of 1852 into Guzzerat would create a rebellion?—I cannot remember; if I could, I would have told the Committee.

7468. You have alluded to the Government having altered the law of prescription in their own favour in the Deccan; was that law of prescription ever introduced into the Deccan?—No; what I say is, that when they came to legislate

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late for the Deccan, they should have extended to the Deccan the laws of prescription which had been given to Guzzerat.

7469. But you are not correct in saying that they altered the law, when such a law never existed?—In the written memorandum from which I read in my former examination, the language I used was more carefully chosen than that which I used afterwards in conversation; what I said was, "It was to have been expected that the East India Company, where they did proceed to the adjudication of titles to land in the Deccan, would have done so before the lapse of time had established prescriptive titles, and that they would have granted to the people of that country the same advantages which the regulations had secured to other British subjects."

7470. What law of prescription did the Government alter?—I have already stated that.

7471. In your evidence you say, thus "having altered the law of prescription in their own favour they constituted a court of their own." What law existing in the Deccan did they alter?—I must beg to refer to my former statement. What I said was this: "But they did not take any steps in the matter till A. D. 1852, thirty-five years after the abdication of the Peshwah, and when many prescriptive titles had been established, under the regulations, by the efflux of time alone; and when they did act, they passed a law of a most rigid and unjust character, excluding the Peshwah's former subjects from the advantages possessed by other British subjects. Instead of simply extending to the Deccan the laws in force elsewhere, they re-enacted the provisions of a rescinded law (rescinded because found inconvênient in practice), by which 60 instead of 30 years' enjoyment was required to constitute a prescriptive title, and added the still more stringent clause, that these sixty years must be sixty years before the introduction of the British Government."

7472. You do not mean to say that they altered the law?—I say that when they legislated, they legislated by instituting a rigorous and unjust law, as compared with the law existing in other parts of the Peishwa's dominions.

7473. Do you recollect the proceedings of the Supreme Court in Sir John Peter Grant's time?—Yes.

7474. Did not his attempt to extend the jurisdiction of the Supreme Court create great dismay in the Mofussil?—I cannot say that it created great dismay; it excited a good deal of interest.

7475. Were they in favour of the jurisdiction at that time?—Some were in favour of it and some were against it. When I told the Rajah of Sattara that we had done something with respect to one of his people, he said, "If you do that, I will prosecute you in the Supreme Court." They certainly were not dismayed at it.

7476. Mr. *Smith.*] You judge from that that he had confidence in getting justice there?—Certainly.

7477. You have talked about the civil service not being able to acquire a knowledge of the languages necessary to carry on the judicial administration of the country; would not that apply also to the barristers?—No; a barrister should, according to my view, pass one examination in Mahratta, and should not be required to learn any other language; and the evidence should be conveyed to him through interpreters.

7478. Is it not the case that a man in the civil service is required to pass an examination in two languages, and that he is appointed to a district of the country with the language of which he is acquainted?—No, that is not always so; it was not the case with my own son.

7479. You have stated that the appointment of collectors as magistrates is wrong. Is not that a vexed question; is it not a question on which great difference of opinion exists among eminent men who are connected with India?—I believe that different opinions are entertained upon that subject, but I think there can be no doubt that it would be much better to divide the duties, making the magisterial duty the one paramount duty.

7480. Has there not been a good deal done of late years to improve roads in India?—Yes.

7481. Has a good road been constructed from Poonah to Sholapore?—Yes; I think I mentioned that before.

7482. Mr. *Villiers.*] In what year was that?—In 1851 I recommended its construction.

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7483. Mr. *Campbell.*] Has that road been made?—Yes; I believe it was made at my recommendation.

7484. Mr. *Villiers.*] Was there any difficulty in making it?—No.

7485. It might have been made before?—Yes.

7486. Mr. *Willoughby.*] According to the plan of introducing English into the courts of justice, you say there would be pleaders on each side, watching the interpreters, who would be acquainted with both languages; do you think that that applies to the Mofussil?—I am speaking prospectively. Education must go on hand in hand with these reforms and improvements of which we are speaking.

7487. You say that the Government land in the Bombay Presidency bears a very high rent?—Yes. When we got it, it was upwards of 50 per cent. I believe it has been considerably reduced under the survey and assessment. The question which was put to me was, whether I thought it would be saleable?

7488. Is not land in the island of Bombay mostly held on what may be called a peppercorn rent?—I believe it is.

7489. And in Sir John Malcolm's time, villages were given in perpetual leases, were they not?—I am not aware; that is like an enam. I have a quotation here from Mr. Elphinstone: "The sovereign's full share is now reckoned at one-half, and a country is reckoned as moderately assessed when he takes only one-third." It is added in a note, that in the Deccan land was found to be assessed at 57½ per cent.

7490. But the object of the Government has been to reduce it?—Yes.

7491. You state that no European capitalists come out to Bombay?—I am not aware of any; there may be a few, but they are exceptions.

7492. Mr. Dickenson, of Nugger, and Mr. Lingard, who was unsuccessful, at Tanna?—No; I do not know them.

7493. Mr. Landon is settled in Broach; do you know that?—Yes.

7494. And has he not prospered?—I do not know whether he has prospered or not.

7495. You have said that you are an advocate for the abolition of the covenanted civil service?—I said that it would give a larger choice and a larger selection.

7496. Here is Lord Macaulay's opinion on this point, in the debate on the India Bill in the House of Commons, on the 24th of June 1853: "Some gentlemen, for whose ability I have great respect, though upon this subject I cannot agree with them, think the best mode of improving the Government of India is by throwing open the public appointments. Let the Governor-general, they say, choose his instruments for the administration. There will be no want of ability, they say, if you only give him the freedom to choose those who serve under him. There is something plausible in the proposition that you should allow him to choose able men wherever he finds them. But my firm opinion is, that the day on which the civil service of India ceases to be a close service, will be the beginning of an age of jobbing the most monstrous, the most extensive, and the most perilous system of abuse in the distribution of patronage that we have ever witnessed. Every Governor-general would, in such case, carry out with him, or would soon be followed by a crowd of relatives, nephews, first and second cousins, friends and sons of friends, and political hangers-on; while every steamer arriving from the Red Sea would carry to India some adventurer bearing with him letters from some powerful man in England, all pressing for employment. Upon those persons so recommended the Governor-general would have it in his power to distribute residencies, seats at the Council Board, seats at the Revenue Board, places of from 4,000*l.* to 6,000*l.* a year upon men without the least acquaintance with the character or habits of the natives, and with only sufficient knowledge of the language to be able to call for another bottle of pale ale, or to desire their attendants to pull the punkah faster. These men would be sent to exercise authority in different districts; one might be sent to a great station at Gwalior, or Khatmandoo, or Mysore, not inferior to Scotland in extent and population, might be made subject to his absolute power. In what way could you put a check on such proceedings? Would you, the House of Commons, control them? Have you been so completely successful in extirpating nepotism and jobbing at your own door, and in excluding all abuses from Whitehall and Somerset House, that you should fancy that you could establish purity in countries, the situation of which you do not know, and the names of which you cannot pronounce? This is what you would be called upon to undertake. I believe most firmly, that instead of purity re-

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sulting from that arrangement to India, India would soon be tainted, and that before long, when a son or brother of some active Member of this House went out to Calcutta, carrying with him a strong letter of recommendation from the Prime Minister to the Governor-general, that letter would be really a bill of exchange, drawn on the revenues of India, for value received in Parliamentary support in this House. That would be no new traffic, but an old traffic revived. We are not without a guide and experience on this point; we have only to look back to those lamentable and shameful years which followed the first establishment of our power in Bengal; then, as may be well known, if you only look to any poet, satirist, or essayist of those times, you may see in what manner the system of appointments operated. Looking over only yesterday, for another object, a file of newspapers of 1771, I was struck by a paragraph stating that Mr. So-and-so, who went out with the Governor-general only three years ago, had just landed with 40,000 *l.* But it was not only so. There were the sort of men who took no office, but simply put the Governor-general to a species of ransom; they laid upon him a sort of tax, what the Mahrattas call choret, and the Scotch, blackmail; that is, the sum paid to a thief in consideration that he went away without doing harm. There is a tradition in Calcutta, where the story was very circumstantially told, and generally believed, that a man came out with a strong letter of recommendation from one of the Ministers, during Lord Clive's second administration. Lord Clive saw that he was not only unfit for, but would positively do harm in any office; and said, in his peculiar way, 'Well, chap, how much do you want?' Not being accustomed to be spoken to so plainly, the man replied, 'That he only hoped for some situation in which his services might be useful.' 'That is no answer, chap,' said Lord Clive. 'How much do you want? Will 100,000 *l.* do?' The person replied, 'That he should be delighted if by laborious service he could obtain that competence.' Lord Clive then wrote out an order for the sum at once, and told the applicant to leave India by the ship he came in, and once in England again to remain there. I think the story is very probable; and I also think that the people of India ought to be very grateful for the course Lord Clive pursued, for though he pillaged the people of Bengal to give this lucky adventurer a large sum, yet the man himself, if he had received an appointment, might both have pillaged them, and misgoverned them as well. Now, against evils like this, there is one security, and I believe but one, and that is, that the civil service be kept close: the consequence of keeping the service close is, that though the Governor-general has a wide choice, he must choose from among a certain set of instruments which he finds prepared to his hand. It is in the highest degree improbable that any one upon going out as Governor-general to India should find many relatives or friends in the civil service, and it more generally happens that he has not one; and the consequence is, that the most unscrupulous Governor-general would dispose of his patronage under the present system more properly than an upright Governor-general under a system by which he should be at liberty to appoint any one. Even an unscrupulous Governor-general, when he finds he cannot oblige relations and friends, comes to the conclusion that the best thing to do is to appoint men who would do the most credit to his choice, and make the public service go on more easily and successfully." I want to know whether that makes any alteration in your opinion?—Having formed my own opinion, I cannot put it aside for anything that Lord Macaulay or any other person has said.

7497. You have alluded to the case of a person who had been a domestic servant, and who, because he was not in the covenanted service, was prevented from filling the office of Postmaster-general, to which he had been appointed?—Yes.

7498. Do you think that making domestic servants eligible to high offices is likely to improve the respectability of the service, or to command the respect of the natives?—I mentioned the fact of his having been a domestic servant in order to show how superior a man he must have been to have risen gradually from that position until he was appointed by Lord Dalhousie Postmaster-general of Western India; it is immaterial what he sprung from; many great men in England have sprung from the lower orders.

7499. You are an advocate for imposing new taxes upon the natives?—I did not quite say that.

7500. You propose an income tax?—In answer to a question put to me by Mr. Mangles, I said that we must meet the exigencies of the country, as we did here,

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here, with respect to the income tax. I said that the natives would submit to anything rather than have their property taken from them.

7501. Does not your acquaintance with the history of India show that it is an extremely difficult thing to impose a tax there?—I alluded to one tax which is ready to your hand. I think that if it were brought home to them that an income tax was absolutely necessary, they would grant it readily.

7502. You said you would have them taxed, but not in this way?—I mentioned the income tax for one, and the nuzzurana, or system of reliefs on succession, for another. They would prefer that to having their land taken away, as the Enam Commission takes it away.

7503. You have said that barristers, from their habits of intercourse with the natives, learn their manners, thoughts, and usages; does that apply to the manners, thoughts, and usages of the people in the interior?—My idea is, that like young men in the civil service, they should acquire it gradually.

7504. In your reply to Question No. 6267, in regard to the police, you speak of one unfortunate failure at Bombay; to what failure do you allude?—I mean that the sergeants were discovered to have taken bribes.

7505. Do you mean English sergeants?—Yes, English sergeants; but I think that the best security we could have against that would be in their retaining all their military advantages. If you use Europeans, you must use the best Europeans.

7506. Intemperance is a great obstacle to their general employment, is it not?—Men do not rise to become sergeants unless they have shown good habits in the army first.

7507. When they are removed from their regiments, do you not know that they fall into habits of intemperance?—The police constables in my day were very efficient and good men.

7508. Do you think that no knowledge of the natives of India and their customs and habits would be necessary to qualify a man for the Post-office?—He would acquire that, having had a good foundation in this country.

7509. You have stated that under the British Government the practice of grants of land has been discontinued; the fact is, that our system is to pay in pensions, and not in land, is it not?—I think the point of the question was as to whether the effect of such grants would not be that there would be no landholders left.

7510. Sir *Erskine Perry.*] Mr. Willoughby has put you a series of very carefully written questions on your former evidence; do those questions point out any inaccuracies or any inadvertences in your former statements?—I have not yet had an opportunity of reading what I said very rapidly here, and there may be a few corrections necessary, but certainly none on any essential points.

7511. Is there any one substantial statement that you made on the former occasion which you now see any reason to retract?—No. Mr. Mangles, I think, asked me more than once about the succession of females, and whether I was certain of it; I have not had an opportunity of referring to books on the Hindoo law, but I have referred to Mr. Elphinstone's history of India, and the Committee I think, will accept that. In quoting Menu's Code, he says, "The natural heirs of a man are the sons of his body, and their sons, and the sons of his daughters, when appointed in default of heirs male, to raise up issue to him; on the failure of issue of the above description, an adopted son succeeds; such a son loses all claim on the inheritance of his original father, and is entitled to a sixth of the property of his adoption, even if subsequently to his adoption sons of the body should be born; on the failure of sons come brother's sons, who are regarded as standing in the place of sons, and who have a right to be adopted, if they wish it, to the exclusion of all other persons; on failure of sons, grandsons, adopted sons and nephews, come fathers, and mothers; then brothers, grandfathers and grandmothers, and then other relations, such as are entitled to perform obsequies to common ancestors; failing them, the preceptor, the fellow-student, or the pupil; and failing them, the Brahmins in general; or in case the deceased be of another class, the king." That is in volume 1, page 66. Then in page 160, speaking of the changes in the law in this respect, Mr. Elphinstone says: "The Code of Menu is still the basis of the Hindu Jurisprudence, and the principal features remain unaltered to the present day. The various works of other inspired writers, however, and the numerous commentaries by persons of less authority, having introduced many changes into the written law,

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law, then led to the formation of several schools, the various opinions of which are followed respectively in different parts of India. Bengal has a separate school of her own; and although the other parts of India agree in their general opinion, they are at least distinguished into at least four schools. All these concur in abolishing marriage between unequal casts, as well as the practice of raising up issue to deceased brothers, and all the species of sons mentioned in Menu, except a son of the body, and one by adoption. Most of them, however, admit a species of adoption unknown to Menu, which is made by a widow in behalf of her deceased husband, in consequence of real or supposed instructions imparted by him during his life. Some schools give the power to the widow, independent of all authorisation by the deceased;" so that it appears that the daughter is appointed, in default of heirs male, to raise up issue to the deceased; and by modern modifications of the law, the gap is filled up by the widow adopting; she steps in and adopts, and so continues the male line. That was clearly understood by those who enacted Act 6 of 1852. Then another point that Mr. Mangles asked me about once or twice, was how the omlah or sheristadar could have any effect upon the judge; that is illustrated a good deal, I think, by the character of the people; and here again, with the permission of the Committee, I would refer once more to those admirable pages of Mr. Elphinstone, in which he sketches the character of the Hindoos; and that I think will show that we ought to be particularly on our guard in matters of this kind. On the character of the Hindoos, Mr. Elphinstone says, "It is in people connected with Government that deceit is most common; but in India this class spreads far, as from the nature of the land revenue the lowest villager is often obliged to resist force by fraud. Hindoos are not ill-fated by nature for intrigue and cunning when their situation calls for those qualities. Patient, supple, and insinuating, they will penetrate the views of a person with whom they have to deal, watch his humours, soothe or irritate his temper, present things in such a form as suits their designs, and contrive by indirect manœuvres to make others, even unwillingly, contribute to the accomplishment of their end. To take a bribe in a good cause is almost meritorious, and it is a venial offence to take one when the cause is bad. Pecuniary fraud is not thought very disgraceful, and if against the public, scarcely disgraceful at all."

7512. Is it not the case that, under the Company's system of judicature, the Company's judge has to hold a great deal of intercourse with and derive much information from the native officers?—Yes.

7513. And is it not the case, under the English system of judicature in India, that the judge never has occasion to put a single question to any of his officers?—Yes.

7514. You have stated that, in your opinion, young men brought up in our English institutions would be very competent, from their education and from their knowledge and improved morality, to become pleaders?—Yes.

7515. Do you state that from personal observation?—Yes.

7516. When you were President of the Board of Education, and previously, when we were associated together in that Board, we had an opportunity, had we not, by personal communication with them, of forming our opinions as to the qualifications of these young men?—We had.

7517. Is there not a good test of the value of the opinion you have given, which opinion has been questioned, as to their power to compete with English students in the actual competitive examinations which medical students have gone through in this country?—Yes.

7518. Is it not the fact that some of the native medical students have come out at the very head of the list on the competitive examinations held in this country? —Yes.

7519. Were not such young men under the most serious disadvantages by having to compete with young Englishmen in an English examination conducted by English examiners in this country?—Yes.

7520. Have not many of the young men of whom you have spoken, and who were known very well to us both, shown a capacity and knowledge equal to any situation in which they could be placed?—I do not think they are at all inferior to Europeans in mental power.

7521. Have you seen the report of Mr. Howard, in which he gives a very disparaging account of these young men?—I have seen the newspaper account of this report.

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7522. Mr. Howard is a young gentleman at the Bombay bar, is he not?—Yes.

7523. And he has had very little experience in India, I believe?—Yes.

7524. The errors which he points out in his report which you saw in the newspaper relate, do they not, to good spelling and the like?—I do not think they affect the general opinion I have given that the young men whom I knew were well educated, and certainly they do not affect what I have said with reference to their power of acquiring knowledge.

7525. Do not the native vakeels show great power of mind?—Yes.

7526. Have they not great talent for mathematics?—Yes; and mental arithmetic.

7527. I understand you to say that Mr. Howard's report does not affect the opinion which you formed from your own personal observation?—Not in the least.

7528. With regard to the Enam Commission, are you still clearly of opinion that the *onus probandi* is thrown upon the possession of the land?—Yes.

7529. And as a gentleman having had a great deal to do with judicial matters, have you any doubt that that is the true construction of the several clauses in the Act to which you have been referred?—No; and I think it must be evident to any person who has ever superintended a trial, on reading that Act, that the *onus probandi* is thrown on the enamdar.

7530. With respect to the appeal to England, the appeal referred to is an appeal by way of memorial, is it not?—Yes.

7531. And the appeal to the Government in Council is an appeal on which the appellant has no opportunity of being heard?—Yes.

7532. Do you think also, from your knowledge of the Government of Bombay, of which you were yourself a distinguished member, that that Government is competent to deal with judicial questions?—I think it would have been far better if we had had no judicial business whatever.

7533. In such judicial business as came before you, and which you were obliged to transact, you had no assistance from counsel for the appellant, had you?—No; nothing of the sort.

7534. And do you think, from your knowledge of judicial business, that such an appeal is unsatisfactory?—Yes, I do.

7535. Especially in the case of questions with regard to private property?—Yes; in the case of all questions involving the right to private property in land.

7536. Mr. *Vansittart.*] Are you acquainted with the Bengal and Madras Presidencies?—Not at all.

7537. You cannot say whether the Mahableswar Hills, in the Bombay Presidency, offer superior advantages for the settlement of Europeans than are to be obtained in the Himalaya and Neilgherries Hills?—I imagine that they are not so advantageous as the Himalaya and Neilgherries, from what I have heard of them, though I never visited them. They offer advantages which the Mahableswar do not. The neighbourhood of the Western Ghauts is, a great part of it, very damp, and the extent is very small as compared with the other hills referred to.

7538. You are clearly of opinion that that settlement of Europeans is perfectly practicable in the Mahableswar Hills?—Yes; there is one part of it, the name of which I cannot remember, but a plateau on the eastern part, where the monsoon is broken.

7539. There you think it would be perfectly practicable?—You may stay on the Mahableswar Hills themselves, but the damp there is extremely great and very inconvenient, though I do not know that it is unhealthy. As I stated before, if you wash your clothes there, you must send them down to be dried. Where they might settle is the eastern part.

7540. Do you think that the eastern part offers as great inducements to the English settler and capitalist as our colonies; for instance, Canada and Australia?—No; I should think not.

7541. I gather from your evidence that you do not entertain a very high opinion of the members of your service, the Bombay Civil Service, as administrators of justice?—I think what I said was, that we did our best, but that we were very far below what men of judicial education should be. I think it would be far better to have gentlemen who had been judicially educated.

7542. I collect

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7542. I collect from your evidence that you wish to see the barristers pleading in the Supreme Court raised to judicial appointments, hitherto held exclusively by civilians, commencing with making them magistrates?—I am anxious to see a system of that kind gradually introduced, commencing with those places in which there are the most Europeans.

7543. Allowing that it is desirable to separate the judicial service from the revenue service, could it not be done with the present body of civilians?—Yes; you must begin, I think, almost immediately after they have served an apprenticeship for three years in the revenue line, and you must then give them, I think, a monopoly of judicial administration.

7544. In point of fact, you think that if a young civilian were appointed for a few years as assistant to a magistrate, if he were then raised to be a joint magistrate and then a full magistrate, that would be a good training for him to be made a sessions judge, and subsequently a judge of the Nizamut Adawlut?—That is the course, I think, in Bombay. A civilian commences in the magisterial line, and passes into the judicial line.

7545. Are they not moved about, so that a man may be a magistrate for two or three years in one district, and then a collector in another district?—Whenever they are collectors they are magistrates also.

7546. But assuming it to be desirable to keep the judicial separate from the revenue service, would it not be advisable, in your opinion, that a man intended for the judicial service should, first of all, be made assistant to magistrates; that he should then be raised to joint magistrate, then be made a full magistrate, and then a sessions judge?—Yes.

7547. In 1850 you may be made a collector of one place, and in 1855, a collector of another?—The collectors are always magistrates.

7548. But they are moved about, are they not?—Yes.

7549. Would not a young civilian, being made assistant to a collector, then made a deputy-collector, then a full collector, and then a Commissioner, be a good training for him to be made a civil judge, or a judge of the Sudder Deewanny?—No; in that case he would have had no judicial education as a young man; my idea is, that he should have a judicial education, and be a barrister at starting; I think that the revenue service should be separated from the magisterial.

7550. Do you think that we could separate the judicial service from the revenue service?—I think we could; I think it would be a good plan to put them for three years, as now, under collectors, to learn matters affecting the peasantry, and having done that, I would take those young men whose tastes and talents are suitable for judicial employment; I would put them into magistrates' offices, and raise them to the bench in that way.

7551. Then, in fact, you think you could separate the civil from the judicial service?—I do not see the least difficulty in it.

7552. You are in favour of the introduction of the English language in the mofussil courts?—Yes, gradually, commencing with the sudder courts, thence to the sessions courts, and choosing those places in the first instance where there are the largest number of Europeans.

7553. You say in your answer to Question No. 6124, you think two interpreters at 80 rupees per month would be sufficient staff?—Yes, in the shape of interpreters; of course they would require assistants and clerks.

7554. Surely you would have to maintain a mohaffiz dufter, a record keeper, a nazir or sheriff, and a body of mohurrils or scribes?—We have those now; we have our sheristadars at eighty rupees a month, and we should abolish them and the deputy.

7555. But we should have to maintain the record keeper, the sheriff, and so on?—Yes.

7556. So, in fact, if English were to be introduced into our courts, the omlah would be mixed half English and half native?—You must employ natives; the interpreters must be natives.

7557. In fact, they would be half English and half natives?—The employés would be natives, but the administration of justice in the courts would be English; that is, all the trial would be conducted in the English language.

7558. But a great portion of the staff would be native, would it not?—It would be all native unless we were rich enough to have an English interpreter, as they have in the Supreme Court.

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7559. But as you could not get these gentlemen to speak English fluently unless they had gone through the necessary course of Christian education, you must have half of them pure natives, must you not?—I do not contemplate employing European Christians, but educated natives, and drawing the interpreters from our colleges.

7560. But you would not be able to get a sufficient staff to embrace the whole of the omlah?—There are not a great many zillahs in Bombay; it would not be many years before we could turn all proceedings into English, I think, but as I have said before, it must be gradual; I think it would be fatal to the plan to do it in any other way.

7561. With regard to the Elphinstone College, are the students all native born?—Yes.

7562. Have most of them embraced the tenets of Christianity?—No.

7563. Do their belonging to that college affect their caste at all?—No; the college was principally founded by the natives of Bombay in honour of Mr. Elphinstone.

7564. Mr. *Mangles.*] Would not a judge or an officer of the character I have described be as much alive as you and Mr. Elphinstone were to the disposition of the natives, and be on his guard against any mischievous influence on the part of his native officer?—I do not consider that I was myself exempt from this influence more than anyone else, I consider that even the best of us are subject to be influenced by the natives.

7565. Do you think that such mischevious influence is exercised over superior officers?—I do; I have held that opinion for a long time.

7566. Do you think that such an influence was exercised over Mr. Elphinstone himself?—I should be sorry to answer for him; but I think I know what he would say.

7567. Mr. *Villiers.*] It having been stated that a person in high position in India expressed an opinion that every European is under the influence of some native or other, I ask whether you entertain that opinion?—Yes.

7568. In your answer to Question 6075, there is a long statement made with respect to this Enam Commission; is that a statement of your own views and opinions, or is it a quotation?—It is a statement of my own views; when the return which has been referred to was made to the House of Commons, I studied it and drew up that review.

7569. I want to know whether this is your opinion as stated there: "It only remains to say that, as the operation of the Enam Commission in Western India involves a violation of public faith, and a rigorous and partial administration of the laws, this commission should be revoked?"—That is my opinion, and I fortify it by reference to Mr. Elphinstone's proclamation, in which he said that the enams should be protected.

7570. What does the term enam or enamdar imply; does it imply an entire proprietary right over the land?—Enam means literally a gift, and the enamdar is placed in the same position with regard to the ryots and villages as the Government.

7571. A person holding under an enamdar is not subject to the Enam Commission; he would not be bound to and show under what title he held his lands?—No. If you impugn the title of the enamdar the land becomes Government land, but the subordinate holder is not disturbed.

7572. When the enamdar is ousted, what becomes of the sub-tenures?—They remain in the same position.

7573. They are not disturbed?—No.

7574. Do the enams apply only to the Deccan?—They are principally in the Deccan and the South Mahratta country.

7575. I understand you to have said that there have been symptoms of rebellion in Sattara and Colapore?—Yes.

7576. Do you connect them at all with these inquiries into the title of land?—Yes; I think that these inquiries have created a great deal of uneasiness and disquiet on the part of the natives, and that if the Enam Commission had never been instituted after prescriptive titles had been established, by the efflux of time the Bombay Presidency would have remained much more tranquil, if not quite tranquil, during the recent disturbances; I think that would have been the case if the country had been left as Mr. Elphinstone left it.

7577. Do you think that the minds of the natives have been unsettled by the proceedings

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proceedings of the Enam Commission?—I think so; and that is quite consistent with what I have heard from military men and others who have founded their opinions on what they have heard from the natives incidentally.

7578. You think that the Enam Commission should be differently constituted?—Yes. I think if the Government have reason to believe that any of its lands are held by fraudulent title, they should go into court and prosecute their claims, as any other person would, and then they would be adjudicated on the usual rules of procedure and evidence, and general enactments of the law.

7579. At present there is no difficulty, is there, in the way of an Englishman acquiring land in Bombay; if he chooses to purchase land he may do so, and obtain a good title, may he not?—There is a short Act, I do not remember the number of it, allowing Englishmen to settle; it would depend on the Government whether they would be allowed to purchase land or not.

7580. Does it depend on the leave of the Government whether any person having land, and desirous of selling it, shall dispose of it?—Yes; the enamdars cannot sell.

7581. Not without the leave of the Government?—No. With the leave of Government they could do anything. I said that I did not think they could sell, and I read an opinion of Mr. Elphinstone, in which he said he thought that enams might be sold, but I think the practice is not to sell. If the Government had never interfered with adoptions, these lands would never escheat, because the widow, being left, adopts to the inheritance. If a man is killed in battle, he is sure to leave a widow. Every man has a wife, and his widow, on his death, adopts, and the adopted son performs the obsequies, and the spiritual part of the duty, and succeeds to the property.

7582. That I understand is not allowed now?—No; I imagine not.

7583. Mr. *Willoughby*.] I suppose you refer to the Act No. 4, passed by the Legislative Council of India on the 17th April 1837, whereby it is enacted, that after the 1st day of May next, it shall be lawful for any subject of his Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or any emoluments issuing out of land, in any part of the territories of the East India Company." The second clause is; " And it is hereby enacted, that all rules which prescribe the manner in which such property as aforesaid may be now acquired and held by natives of the said territories, shall extend to all persons who shall, under the authority of this Act, acquire or hold such property"?—Yes; I know that Act; but the titles of the enamdars having been disturbed in the way I have described, a capitalist would have great difficulty in getting land.

7584. Is it the fact, that practically there is a difficulty in English people acquiring land in consequence of this Enam Commission?—Yes.

7585. Mr. *Vansittart*.] Was not the practice of adoption universal with the native Government?—Yes, under the Peishwa; but then the revenue was compensated by the system of nuzzur, or a fine or fee paid on succession. Sir John Malcolm elaborated a plan for making everybody pay, from the rajah down to the lowest landowner; the adopted son paid more, as is the case in this country, with regard to the succession duty to distant relations of the deceased.

7586. Mr. *Willoughby*.] Does not the law of adoption vary in different parts of India?—I should imagine not, with respect to the Hindoos.

7587. Does not the practice of the British Government vary?—A Hindoo Rajah would always allow a man to adopt, in consequence of his requiring somebody to make what Mr. Elphinstone calls " effectual obsequies."

7588. But the practice of the British Government differs, does it not?—As a rule they do not let them adopt now.

7589. Not in Rajpootana?—I do not know; it has been refused in the Deccan.

Major George Wingate, called in; and Examined.

Major *G. Wingate*.

7590. *Chairman*.] WILL you have the goodness to state the duration of your service in India?—I arrived in India in 1831; I then joined the Engineer Corps at Seroor, in the Deccan. I was employed the next four years in the Public Works Department, in road making, in the collectorates of Tanna and Poonah. In 1835 I was appointed to assist the late Mr. Goldsmid, of the civil service, in revising the assessment of the Indapoor talook, of the Poonah collectorate. I was afterwards

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wards entrusted with the supervision of similar operations in the adjoining districts of Poonah and Sholapoor in which I remained employed until 1840, when I came to England for two years. Shortly after my return to India in 1843 I was appointed to superintend the revenue survey and settlement of the Southern Mahratta country. On that duty I was engaged until 1850, I think, when I went to England again for six months, and returned to the same duty. I was then appointed Revenue Survey Commissioner for the entire Presidency, and in this capacity I had the control of all the revenue survey establishments, and visited most parts of the Presidency with a view to revenue survey operations, and to inquire into the state of the tenures and the condition of the districts generally. I have therefore had some experience in nearly all parts of the Presidency.

7591. With the exception of two years and a half, you have been for 25 years in India?—For 23 years; about 20 years in actual service.

7592. And your service has been in the Bombay Presidency?—Entirely.

7593. In which Presidency you have gone about to a great extent?—To a great extent, for I may say 15 years of that time. I have lived for half the year in tents amongst the ryots, and I think I have had good opportunities of understanding their condition.

7594. What has been your principal occupation?—Settling the land assessment.

7595. You have been employed on the survey, have you not?—Yes; superintending the revenue surveys of Bombay, the object of which was to settle the land assessment.

7596. Will you state, if you please, what is the peculiar settlement in Bombay to which you allude?—The revenue settlement of Bombay is a field settlement; that is, the lands of every village are divided by the cultivators into fields for the convenience of cultivation. These fields, unless where they are of minute or above a certain size, are recognised and made permanent by means of boundary marks, and a separate assessment is fixed upon each of those fields; the occupant of each of these fields is then recognised at the settlement as the person responsible for the assessment; he becomes, in fact, when not already so, the proprietor of that field, with complete liberty to sell, mortgage, transfer, or use it for any purpose whatever.

7597. In what respect does this system differ from the system in the other two Presidencies?—It chiefly differs in consequence of the responsibility of the landholder referring simply to himself, that is, to his own holding; the holder of each field is simply responsible for the assessment of each field. He is in no way responsible for the assessment of any parts of the village lands, except what he himself holds in his own occupation. In the system of the North-west Provinces, I understand there is a joint responsibility for the entire revenue of the village; in the Province of Bengal, the zemindar is responsible for the entire revenue of his zemindaree, and if he fails, of course everybody holding under him fails also.

7598. The difference lies, does it not, in the non-existence of an intermediate person or community between the Government and the occupant of the land?—There may be an intermediate person.

7599. I mean so far as regards revenue?—The occupant is not necessarily the cultivator; he is the landowner. He is at perfect liberty to let his land to others, but his responsibility is individual, and it is limited to his own particular lands; it is not mixed up with the responsibility of other parties in the same village, or estate, or zemindary, or whatever it may be.

7600. That is what you wish to state as the distinction between the modern Bombay system and the system in Bengal and Madras?—Yes; but I conceive that the former system has very important advantages.

7601. How long has the system been in operation?—It was to a certain extent the theory of the revenue system which has existed in Bombay for a very long time indeed.

7602. Mr. *Mangles.*] The ryotwarree system?—The ryotwarree system; but, in practice under the old ryotwarree system, the assessment was so heavy that it prevented the rise of any property in land very generally.

7603. *Chairman.*] There was no difference in principle in the mode of the assessment; the principle existed before?—The principle of each landholder owning his own land existed long before.

7604. But the difference in former times arose from the more oppressive nature

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nature and amount of the tax?—That was one very great difference; another difference was that, under the present system, the holder of land has full liberty to sell, mortgage, and use his land in any way he likes. Practically that was not recognised under the old system.

7605. There is a greater proprietary right now than there was under the old system?—Necessarily from the reduction of the assessment.

7606. Mr. *Willoughby.*] A lease lasts for 30 years, does it not?—The assessment is fixed for 30 years.

7607. *Chairman.*] Then it recognises existing rights in the soil, and confers a proprietary right in the occupant where it does not already exist?—That is the object of the settlement, to recognise all existing rights, and to confer them where they do not already exist.

7608. The land assessment is fixed for 30 years?—This particular assessment is fixed for 30 years, but the title of the occupant of the land is declared to be permanent, subject only to the due payment of the assessment.

7609. At the termination of the 30 years, the amount of the land tax may be raised or lowered?—Yes, upon general principles, not upon special grounds affecting individuals only.

7610. How long is each landowner bound to pay this assessment?—He is bound to pay it upon each field for a single year; at the close of each year, he has the liberty, on due notice being given, to relinquish any field which he has in his occupation, from which, I think, very important advantages accrue to him, tending to the welfare of agriculture generally, as regards investment of capital in land.

7611. What is the effect of this arrangement as compared with a lease?—As regards the occupant, that is the landowner, the arrangement has the full advantage of a 30 years' lease, because for that period he has his land at a fixed assessment; then it confers upon him the further important advantage, that he is not necessarily bound to pay his assessment for the whole of his land during the whole of that period; in the event of any misfortune happening to him, such as the loss of cattle by disease, or the loss of crops through drought, or any similar misfortune, he is enabled to limit his cultivation according to his means, by relinquishing a portion of his fields and retaining those upon which he may have expended capital, and which he may value most highly; I therefore consider it a direct encouragement to the investment of capital in the land, because it gives him a greater security of tenure than could be obtained I conceive in almost any other way.

7612. Is this system anything like that which was recommended by the late Mr. Mackay?—Mr. Mackay considered that it would have been preferable to have given a ryot a compulsory lease, requiring him to hold the land for the entire term of the settlement; that is, for 30 years, because he thought that that would compel him to exercise habits of forethought and industry, which the greater liberty allowed by the survey settlement he did not conceive was so well calculated to encourage. That subject, however, was fully discussed before the settlement was sanctioned by the Bombay Government; and the reasons which I shortly stated just now for a preference for the Bombay system were fully admitted by the Government, and all the revenue officers who were consulted on the subject admitted that it would not have been for the interest of the ryots to attempt to bind them by so long a lease, owing to the general poverty of the cultivators, the uncertainty of the seasons in India, and the other contingencies to which land is liable.

7613. Mr. *Mangles.*] How long a lease did Mr. Mackay propose?—He proposed to make a peasant proprietorship, but on the basis of a permanent settlement. There were two proposals. He held, also, that it would have been better to bind the ryots to retain the whole of their land for the whole term of the lease.

7614. *Chairman.*] For the whole 30 years?—Yes. Supposing a ryot has 10 fields, Mr. Mackay wanted to bind him to hold those 10 fields for the whole term of the lease. According to the Bombay system, he can relinquish any one or the whole of those fields when his requirements may induce him to do so.

7615. He can dispose of it to other persons, can he not?—He is at perfect liberty to do so; he can sell any one of his fields to any other person, which I conceive to be exceedingly desirable, because, as the circumstances of the ryots are always changing, some are improving, while others are deteriorating, it seems to

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to me to be of great consequence to facilitate the transfer of land between one party and another.

7616. I understand you to say that Mr. Mackay's proposition was fully considered by the persons who formed this new system?—Yes; which Mr. Mackay did not appear to be fully aware of.

7617. The system existed before Mr. Mackay made this observation?—Yes; but Mr. Mackay's report had not of course his own revision.

7618. What is the precise date of the birth (if I may so say) of this system? —The system first commenced in 1835, and was finally settled in 1847. It obtained the full recognition of the Bombay Government when Sir George Clerk was Governor. I would state that my objection to declaring the survey assessment permanent is simply a financial one; that as the revenue of India depends chiefly upon the land, so our future prospects of improving India, and developing its resources, must depend upon the land assessment.

7619. Your only objection to Mr. Mackay's proposal is with reference to the revenue?—Yes; I have no other in regard to his proposal to make the assessment permanent.

7620. What is the effect of this arrangement with reference to the investment of capital in agricultural works?—My belief is that the survey tenure is highly favourable to the investment of capital, owing to the ease with which land is everywhere obtainable in portions of moderate size; for instance, if a European or other capitalist wishes to erect works of any description connected with agriculture, he can have no difficulty in purchasing the right of occupancy of any particular field, and there is no danger of his title to the spot upon which he wishes to erect expensive works being vitiated by the failure of a zemindar, or any other party possessing lands in the same village or estate. He has a complete title to a small portion of land, and he can go on adding to that land to any extent he chooses, so far as he can induce the people to part with it.

7621. How far do you consider it a favourable system as respects the sale and transfer of land and the purchase of land by settlers from Europe, or, in other words, do you think that a European settler going there and finding that, after 30 years, he might be liable to have the land rent changed would be deterred from purchasing land in consequence of that?—I do not think so; because he would have all the security that the possessor of property has in any other country in the world. He would have the good faith of the Government, and it would be understood that whatever settlement is made at the end of 30 years would be upon considerations not specially affecting him as an individual; for instance, at the end of the 30 years, in all probability, if Government found it necessary to make any alteration in the way of adding to the land-tax, it would be by an additional per-centage to the assessment already existing.

7622. You do not think that that contingency would act adversely upon the mind of a settler in India?—It ought not to do so if he fully understood the real position of the Government of India.

7623. Do you think he would be likely to erect buildings and lay out capital on such a tenure as that?—I should think so; it is a tenure for ever.

7624. Take the case of a manufacturer?—The right to impose taxation must necessarily exist in every Government, and I do not see why he should not have as much confidence in the good faith of the Government of India as he has in any other Government under which he lives; it is simply the faith of the subject in the Government that gives a value to property everywhere.

7625. What do you consider is the effect of this settlement on the character and status of the agricultural population?—I think it is very favourable indeed. If the Committee will allow me I should like to refer to a letter written by a most competent observer, Mr. Frere, now Commissioner in Scinde; he was stationed in the district of Indapoor before the settlement; he revisited the district after an interval of 14 years, having been meanwhile employed as Commissioner of the Sattara territory; and I should like, with the permission of the Committee, to read his description of the changes which had been effected in the interval.

7626. What is the date of the letter to which you refer?—It is dated the 13th of December 1849, and addressed to Mr. Williamson Ramsay; he says, "It is now just 14 years since you picked me up there (in the Indapoor District), after I had served my apprenticeship under Goldsmid, and I could not have believed that the period could have done so much for what was then the most miserable

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district in the Deccan. It, of course, still continues one of the least favoured by nature; barren in soil, ill-watered, and uncertainly and scantily supplied with rain; but these natural drawbacks have been, as far as possible, neutralised by good administration. You may remember that in 1834, full two-thirds of the land were waste, now there is not a field uncultivated, unless purposely kept so for grazing. The tillage was then most imperfect and slovenly; it is now equal to the excellent cultivation of the Krishna Valley, and far superior to that of the Sattara villages on the south side of the Neera, which, in 1834-35, were far superior to Indapoor. The difference is most marked this year, which, from unprecedented deluges of rain, has been most unfavourable. Here (Sattara) there are no crops in many villages; the seed rotted in some fields; the young plants were choked with weeds in others. Throughout Indapoor, with precisely the same drawbacks, there are crops to feed the people and pay the rent, though gained, I was told, by great expenditure in labour, and often in seed, some farmers having sown the same land four times over before they got the plants to come up and thrive. But this high farming, for it is nothing else, the effect of having plenty of cattle and money at command, and heart, has carried them through a bad year. They will, though with difficulty, pay their rents, which cannot be done here. In no single village did I fail to observe the recent marks of prosperity in new and newly-built houses, some two attics high; temples, village walls, and gates, chowreas, &c. Three villages, which I remembered waste and uninhabited, were thriving, and numerous hamlets had sprung up. The great money lenders complained that there was no trade; but on inquiry, I found that it was the trade of money-lending which had fallen off. The ryots are so well off they are tolerably independent; and either do not want to borrow, or able to quit it on reasonable terms, without submitting to extortion; nine or twelve per cent., instead of 12 and 50, a great change. The number of shops had marvellously increased; Indapoor bazaar was at least double its former size, and Kullus, which used to be a decayed market town with one shop, has now 23. In 1835, or later, there was not one cart with wooden wheels in all the district; the stone wheeled manure carts were very rare. Now, standing at the Indapoor town gate, I counted upwards of a hundred attending the bazaar, and saw some in every village. But the most marvellous change was in the people, from being the most wretched depressed set in the Deccan, they have become thriving, independent fellows, and thoroughly grateful for what has been done for them. When it was known I was coming, they turned out in crowds, delighted to see again any one connected with the re-assessment, and doing all in their power to show how glad they were to see me. The district officers, whom you examined when first you wrote about the state of the country, asked much after you, and took me to see the house where you visited them. I was overwhelmed with questions about Goldsmid; and every one had some anecdote to tell, or something to ask, about Goldsmid, who runs a good chance of being manufactured into a popular village deity, and taking the place of Mahadeo, or even Marotee. I felt quite convinced that it would be no easy matter to hatch a rebellion there. In fact, it convinced me more than ever that our hold on the people of the Deccan is our revenue administration, and the effect is not confined to our own districts; it is felt here (Sattara), and is, I am satisfied, the most effectual, if not the only counterpoise to the discontent of the upper classes. I have seen it particularly since the annexation. The upper classes are evidently either sulky or suspicious, and a spark would set them in a blaze; but the lower orders, everywhere, hope that our liberal measures, in reducing assessments, &c., will now soon reach them. They always ask me about it, and often say, "We have had many good rulers of our own, but the Company is the only government that ever voluntarily reduced its demand to the limits fixed by the shasters. Perhaps the most satisfactory feature about Indapoor is, that except for the first two years of Goldsmid and Mansfield's administration, the district has had no special advantages. The whole is the effect of good administration, which it has shared with the rest of the collectorate." That is the opinion of the present Commissioner of Scinde, who knew that district particularly, from having been deputed to examine into its condition, and through whose, and Mr. Goldsmid's representations on the recommendation of Mr. Wiliamson Ramsay, then Revenue Commissioner, this revenue settlement experiment was first made.

7627. To what cause would you attribute the great prosperity of the country as described in the letter to which you have just referred?—Simply to the secure tenure

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tenure of land, and the reduction of assessment; the ryot is freed from all sorts of oppression on the part of the village officers, or superior officers; he has simply to pay the assessment, which he knows beforehand is a moderate one, and no one can demand more from him; he is at perfect liberty to manage his land in any way he likes, no one can interfere with him at all; his concerns are not mixed up with those of his fellow villagers; if they are unsuccessful, this does not affect him; he simply has to rely upon his own exertions.

7628. Then it is partly attributable to the directness of his connexion with the Government, and the absence of intermediate agency?—I think that is one great advantage.

7629. You have described the causes of their prosperity; can you describe the cause of the previous adversity under which these people suffered?—I think the main cause was undoubtedly the weight of the land-tax throughout the Bombay district.

7630. And its uncertainty also?—It was necessarily uncertain; it was not exactly an annual assessment; it was generally a fixed assessment; that is, the ryot knew beforehand the limit beyond which a demand could not be made upon him, but that limit was generally beyond his power to meet, and consequently it was practically a varying assessment, because there was a constant need of remission.

7631. There was uncertainty?—Yes.

7632. What will be the position of the landowner at the expiration of the 30 years' settlement?—The position of the landowner as to tenure will be exactly as it was at the commencement of the settlement, he is secured for ever; and the sole change which could be made, would be an increase or diminution in his assessment, as the exigences of Government and of the time might seem to demand.

7633. Do you think that the mode in which the settlement is made operates to check the extreme subdivision of occupancies?—Yes, I think so; because in the rules for the administration of these settlements, the land is made responsible for the assessment; therefore, if a ryot falls into arrear, any one of his fields which he may choose to point out to the collector, may be attached and sold, in order to make good the assessment which may be in arrear; if he does not pay the assessment the collector has the right of requiring him to give up a portion of his land, and to transfer it to another, or to sell it. If it fetches a price more than sufficient to pay the balance due, of course anything in excess would be given over to the landowner.

7634. You think that an advantageous arrangement?—Yes, because without it a considerable portion of land would be left in the hands of pauper cultivators.

7635. It limits the extent of land owned by a ryot, to his means?—Yes, and it passes the land he cannot cultivate into the hands of another.

7636. Who has the means to pay the land tax?—Yes; who means to cultivate the land properly, and to pay the land tax.

7637. Therefore it has the advantage of preventing the land continuing in the hands of a pauper tenantry?—Yes, that is my impression.

Martis, 13° die Julii, 1858.

MEMBERS PRESENT.

Mr. Willoughby.	Mr. J. W. Smith.
Mr. Gregson.	Mr. W. Vansittart.
Mr. Kinnaird.	Mr. Villiers.
Mr. Mangles.	Mr. Baillie.
Mr. Danby Seymour.	

WILLIAM EWART, Esq., in the Chair.

Major *George Wingate*, called in; and further Examined.

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7638. *Chairman.*] WOULD not the tendency of the system which you described in your evidence, when you were examined here on Thursday last, be rather towards the production of only small occupiers of land?—I think that the tendency of the laws of inheritance prevailing in India is to cause a great subdivision of land everywhere, but not, I think, more so under the Bombay system of the revenue settlement than any other.

7639. Would there be an opportunity then for a large capitalist to settle in a country which was subject to such a distribution of property in small divisions?—Yes, I think so; I see nothing to prevent a capitalist from settling there. In all the surveyed districts of Bombay, a capitalist would have the power of acquiring land by purchasing up small properties; but I do not think that that is the way in which he could apply his capital to the best advantage.

7640. In what way would land be purchaseable by Europeans then?—Land in the surveyed districts is nearly all in occupation, and therefore it could be only purchased by buying up the rights of the existing occupants, which could only be done by offering to them a price which they would accept, in the same way as land is only purchaseable in this country, or in any other civilised country.

7641. Does the land assessment hinder the acquisition of land by Europeans or other capitalists?—I do not think it does at all, because the existing land-tax, in my opinion, may be viewed as the interest of a mortgage or as a rent-charge upon the land. The ordinary rate of interest upon money borrowed in the interior of India for agricultural operations ranges probably from 10 to 50 per cent.; and even a European colonist would not be likely to raise money on mortgage of his land at a less rate than from 15 to 20 per cent. interest. The security of a land tenure does not seem to me to be in any way affected by the existence of a land-tax of a moderate amount, that is, less than the ordinary rent which the land would yield to a proprietor if there were no tax; the land would sell for less, in consequence of the existence of the tax, and a purchaser, with the view of colonization, would of course require less capital to obtain land, and to commence agricultural operations, than if the land were unburdened with the tax; but the tax, if of moderate amount, as is now the case in most parts of India, would nowise detract from the security of his tenure. A lease of 19 to 21 years is thought sufficiently long in this country to reimburse the farmer for draining his land, for liming it, and effecting other improvements of a lasting character, and requiring a considerable outlay of capital, while, in Bombay, the survey settlement of the land-tax is for 30 years, and at the close of this term, the settlement, in all probability, will be renewed for another term of 30 years, either at the same rate or at a proportional enhancement or diminution, such as the circumstances of the times might seem to render expedient; but the colonist would feel secure that whatever change might be made would be effected on general principles, applicable to the whole district in which his property might be situated, and that no exceptional increase of his tax, as an individual, and apart from an increase of the land-tax generally, would ever be made in consideration of improvements effected by him. For this he would have the guarantee of the general good faith of the Government; and this, it will be found on examination, is the basis on which property rests in all countries.

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Everywhere land might be taxed, but the possessor relies on the good faith of the Government under the protection of which he lives that it will not be unduly assessed. Exceptional taxation is simply plundering; but a general taxation no one can complain of, if it does not exceed what the exigencies of the state may require.

7642. Has the survey and assessment system reduced the rates on land sufficiently to make it saleable to an English capitalist; a former witness has said that it did not?—Yes: I think that it has reduced it sufficiently to make it a valuable property. I do not see that, if a European capitalist wishes to obtain land, there is any obstacle, owing to the existence of the assessment.

7643. The Committee have taken evidence with regard to the power of redeeming the land-tax; what do you think would be the effect to be anticipated from allowing the redemption of that tax?—I am of opinion that the redemption of the land-tax would be a great evil to the interests of agriculture in India; capital for agricultural improvements, such as extension of irrigation by means of wells and tanks, and for the better tillage of the soil, is everywhere insufficient at present, but this insufficiency would be enormously aggravated, in my opinion, by tempting the agriculturists to employ their savings in redeeming the land-tax, instead of in adding to the produce of their farms; the permission to redeem the land-tax could not with justice be restricted to Europeans, and if made general, the effect would probably be to throw back agriculture at least a quarter of century; it is a mistake, in my opinion, to suppose that if the funds obtained from the redemption of the land-tax were applied to the extinction of the public debt, they would be returned to the community and applied to agriculture; the debt, I believe, is chiefly held by Europeans resident in this country, and I am satisfied that if the redemption of the land-tax were applied to the extinction of the debt, the effect of such a measure would be to withdraw capital from India and transfer it to this country; the effect of the redemption of the land-tax on the resources of Government would be most disastrous; the mass of the population of India is dependent on the soil for subsistence, and the individuals of which this aggregate is made up are so poor, that they can supply themselves with little besides food; the climate enables them to do with very little clothing, and their consumption of articles of commerce is exceedingly limited, so that if the taxation of the land were given up, there would remain no other source from which an adequate revenue could by possibility be raised.

7644. We were not speaking of the giving up of the land-tax, but of granting the power of redeeming the land-tax; your last answer would seem to contemplate a commutation, which would be an act on the part of the Government; this would be a mere exercise of a power conferred by the State?—I am quite aware of that.

7645. Even then you would give the same answer, would you?—Yes; because if you remove from the Government the power of raising rent from land, what security have you that the Government may not hereafter get into financial difficulties. What I want to prove is, that there is no other source of taxation except the land.

7646. Would you be unfavourable even to the possibly partial exercise of the power?—I do not see how you could limit it.

7647. Might it not be that there were but few who could avail themselves of that power?—I think that a great number would. I would invite the Committee to consider what available fund for taxation, besides the rent of the land, is to be found in an agricultural community, such as that of India. The manufacturing interests of this country would not permit additional duties to be laid upon imports of British goods into India, nor exports of produce from India to this country. The customs, therefore, form a very limited source of revenue to the Indian financier. There is the Excise; but this source of taxation has not been forgotten in India, where taxes on intoxicating liquors and drugs are universal, and where also the only other article that even the poorest must consume—salt—is likewise heavily taxed. No tax in India which does not fall upon the peasantry will ever yield much, and no lengthened investigation is needed, I think, to satisfy a financier that, in any country where the great mass of the population consists of peasants, the rest of the land forms the principal fund from which a public revenue could be raised. The land assessment of India is not a tax at all, but simply a rent-charge; in settled districts it does not perhaps bear heavier on the agriculturists than

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than tithes, poor rates, and other local burdens do in this country, while it possesses the great superiority over these of being a fixed instead of a fluctuating charge on the land.

7648. Are there unappropriated lands of great extent suitable to the settlement of Europeans in the Bombay Presidency?—There is no great extent of unappropriated land in the Bombay Presidency, except in the province of Khandesh. I am not of opinion that any part of the Bombay Presidency is suitable for colonization by Europeans; in point of climate, some part of the Western Ghaut ranges are perhaps not unfavourable to the European constitution, but there is no land upon these mountains from the tillage of which a European could possibly obtain a living; the soil is generally sterile and unsuitable for anything but the cultivation of the commonest grains of the country.

7649. Could the hill ranges to the east of the Mahableshwar mountains be advantageously used, do you think, for the residence of soldiers?—I think they could be advantageously used as convalescent stations, or as stations for the location of the children of soldiers or pensioners who might reside there, and perhaps have little gardens, and so on.

7650. Do you agree with the witnesses who have stated that asylums for the settlement of the children of soldiers might be advantageously placed there?—I think so; I see nothing to prevent it.

7651. Might they not be educated there, and so act as an intermediate state of society between the Europeans and the Indians, with European civilization adapted to elicit the resources of India?—I am of that opinion, decidedly; I think that very great advantages would be derived from it.

7652. Mr. *Willoughby.*] In what part, would you say?—On the eastern side of the Ghaut ranges, where the rains are not so heavy as they are on the western face of the Ghauts.

7653. *Chairman.*] Are there not considerable waste lands in the province of Khandesh?—The only province in the Presidency where there is any great extent of waste land is the province of Khandesh. In a report of mine, submitted to the Bombay Government in 1852, I think I estimated the waste lands of Khandesh at 5,000,000 acres, and that most part of these lands consisted of soils suitable to the production of exportable products, such as cotton, oil, seeds, and other produce suitable for export.

7654. Will the eventual value of these lands to Government be considerable, do you think?—I think it will be very great; but of the capability of these lands for growing cotton, I think a somewhat exaggerated estimate has been formed in this country; perhaps I may be allowed to refer to a statement made, I think by an Honourable Member of this Committee, that the cotton lands of Khandesh are capable of producing more cotton than was grown in the United States. I think that there is some very considerable mistake in that estimate; the information was evidently taken from my own report on Khandesh, in which the waste lands were estimated at 5,000,000 acres; now if the whole of this land were suitable for cotton, which is not likely, and cotton were grown on it once in three years, which is the ordinary rotation (for you cannot grow it more frequently without exhausting the fertility of the land), we should have 1,666,666 acres bearing cotton annually; and estimating the crop at 100 lbs. of cleaned cotton per acre, which is Mr. Chapman's estimate for the cotton lands of Guzzerat and Khandesh, and is also the estimate for India generally, given in "Statistical Papers relating to India," printed by the Court of Directors in 1853, we have a total annual produce of 166,666,600 lbs. from the 5,000,000 acres of waste land in Khandesh; the crop of America, however, may be taken at 3,500,000 bales, or 1,400,000,000 lbs., which is more than eight times as great as that which is to be expected from the waste lands of Khandesh; I think it is quite a mistake to suppose that India could, under any circumstances, supply an amount of cotton sufficient to render this country independent of America.

7655. Do you include the total crop of America?—Yes; I am disposed to think, however, that a large increase of production is derivable from Khandesh, and also from other parts of India, by means of irrigation, if the price of the staple should rise sufficiently to make irrigation available; at present, my belief is, that it is the low price of cotton that prevents irrigation being resorted to in India; and on this point, it may be interesting to notice that Doctor Hove, a Polish *savant,* who travelled in the western districts of India in 1788, mentions, that at that time the cotton lands in the Western Presidency were usually irrigated.*

7656. Mr. *Baillie.*] Is there much cotton grown in Khandesh?—Yes; it is grown extensively

7657. *Chairman.*] And is it increasing?—Yes; it is increasing very rapidly.

7658. Mr. *Smith.*] You state that there are great facilities for irrigation in Khandesh?—There are considerable facilities, which have been availed of to a great extent already; but, in the present circumstances of Khandesh, I think that the most profitable way of employing capital there would not be to expend it in works of irrigation, but in bringing the waste land under cultivation.

7659. Do you think that the Tapti itself is capable of being converted to purposes of irrigation?—I think not.

7660. Why?—Because the Tapti flows throughout the whole of Khandesh in a very deep and depressed bed.

7661. What is the fall of the Tapti?—I am not aware what the fall is, but I think it is not great, because boats have been navigated, I think, from Khandesh; rafts, or canoes, have certainly been navigated down to the sea.

7662. Cannot the Tapti, if taken at its source, be used for purposes of irrigation?—I have not examined the upper portion of the river, but I think that in all probability it could.

7663. There are also other great facilities for irrigation in the smaller rivers, are there not?—Yes; they possess considerable facilities, but these have been already availed of to a considerable extent.

7664. Assuming that there are great facilities for irrigation in Khandesh, and that these facilities were used for the purpose of the cultivation of cotton, do you not think that the growth of cotton could be increased to an extent which would average more than 100 lbs. weight to the acre?—Yes.

7665. Do you not know that cotton in India, with irrigation, produces 400 lbs. of clean cotton to the acre?—I am not aware of that.

7666. Are you aware that Sir John Lawrence states, that with irrigation 400 lbs. to the acre has been produced in the neighbourhood of Delhi?—I am not.

7667. You state in your report, that there are 6,250,000 acres of land in Khandesh which are capable of tillage?—Five millions, I think.

7668. Six millions you state?—That is, including land at present under cultivation.

7669. Six million two hundred and fifty-four thousand acres capable of cultivation, the rest being waste?—Yes.

7669.* You state that there are 12,000 square miles?—Yes.

7670. Now, assuming that by means of irrigation a bale of cotton can be produced on an acre of land, does it not follow that 3,000,000 of acres of land would produce 3,000,000 bales of cotton?—Yes, upon that assumption.

7671. And 3,000,000 acres of land is not one-half of the land capable of being cultivated in Khandesh?—No.

7672. Is it an out-of-the-way assumption, then, that Khandesh is capable of producing as much as America, which, last year, produced only 3,000,000 bales of cotton?—From the amount of cotton produced in Khandesh and elsewhere, in the Bombay district, of which I have any knowledge, I should say there was very little prospect indeed of such a return being obtained there.

7673. Capital has been so little applied to the cultivation of cotton in India hitherto, that probably you can form no idea what the district is capable of producing?—I am quite satisfied of one thing; that cotton, to the extent you contemplate, and cultivated in the way you contemplate, could not be grown in Khandesh at the present prices of cotton; I am perfectly satisfied that the present prices of cotton would not remunerate a farmer for the expense of irrigated cultivation.

7674. You probably have not looked so much into the question as to be able to form an opinion; but supposing that 400 lbs. per acre of cotton could be produced by means of irrigation, and that that cotton was only double the value of the existing cotton, do you not see, that assuming that, at present, the produce is 100 lbs. an acre, the produce of an acre of cotton land would be eight-fold what it is at present?—Upon these assumptions, of course, I am quite ready to admit that the value of the produce would be eight-fold.

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* *Vide* M.S. of Dr. Hove's Journal in the British Museum, which has been printed for the Government of Bombay, under the superintendence of Dr. Alexander Gibson, F.L.S., Conservator of Forests in Western India.

7675. Then, supposing the produce of an acre of land would be eight times as much as it is at present, you probably have not considered whether it might not be a profitable undertaking to grow cotton on irrigated land?—I have not gone into the subject with any great minuteness of investigation.

7676. *Chairman.*] You do not mean to dispute the increased production of cotton by means of irrigation, do you?—I imagine that, with irrigation, the production would be much greater; but I have not myself had an opportunity of seeing cotton irrigated.

7677. Mr. *Smith.*] In fact, is not the production of all articles very much increased by means of irrigation?—Undoubtedly.

7678. *Chairman.*] What are the other obstacles to which you would refer, besides the want of irrigation?—The chief obstacles to the increase of cotton cultivation in Khandesh are the want of population and the unhealthiness of the climate. The waste lands of Khandesh are covered with jungle, and form perhaps one of the most unhealthy districts in the whole Presidency.

7679. In fact, you particularly want European capitalists, if they could be induced to go there?—I do not think that Europeans could succeed in bringing the waste lands of Khandesh into cultivation, owing to the unhealthiness of the climate.

7680. Do you think it would pay to irrigate land there?—I have already stated that I think capital could be more profitably employed in cultivating cotton and other crops without, than it could be by means of irrigation in Khandesh.

7681. Why?—Because I found, in the course of my inquiries, that the least profitable cultivation there was that which was irrigated. I found that the farmers were becoming wealthy by the extension of the dry-crop cultivation, and that the poorest farmers, and those in the greatest difficulty, in Khandesh, were those who cultivated by means of irrigation.

7682. What was the cause of the success of those farmers who were dry cultivators?—The fact of their being able to raise produce from the dry-crop cultivation at a less cost than they could from irrigated lands.

7683. I understood you to say that they improved their existing crops by means of their cultivation; how did they improve them?—I did not say that they improved their crops by means of dry cultivation, but that by applying their capital to the cultivation of the waste land, they obtained a larger return for their capital than they could have obtained by applying the same capital to the extension of irrigation.

7684. Might not irrigation have been brought to bear upon the waste land, and would not that have increased its value more than merely inclosing it?—No; I think that as long as there is a large extent of waste land, the most profitable way of employing capital would be by bringing it into cultivation, and raising upon it the ordinary dry crops.

7685. Have they improved at all in their mode of cleaning cotton in that part of India?—I am not aware that they have done so particularly in Khandesh, except through the agency of one of the English mercantile houses in Bombay.

7686. Have they introduced saw-gins at all?—They have been used in one manufactory, and there is also a Government manufactory where they have been in use.

7687. Besides the Government manufactory, there is also a private manufactory, is there not?—There was, but I believe it has subsequently been given up.

7688. Has the use of saw-gins been extended?—Yes; it has been extended very considerably in the Southern Mahratta country.

7689. What employment do you think there is for the capital of European settlers in Bombay?—I do not think that a European colonist in India would ever succeed as a mere farmer or tiller of land; he would be beaten by the natives, who carry on the various operations of agriculture with no despicable skill, and with a degree of economy which it would be hopeless for a European to attempt to carry out. The American planters who were employed in cotton planting in the Dharwar Collectorate stated openly that they could not improve on the native methods of cultivating the staple, or compete with the native farmers. So cheaply did the latter conduct their operations, that they contracted to cultivate cotton for the American planters at two rupees, or four shillings an acre; there is, however, a great field in India for the employment of Europeans in productive industry requiring a higher degree of skill or better mechanical aids than the natives are possessed of; and it will, I think, be found that the Europeans who are now engaged in the interior of India in industrial pursuits are so employed. The indigo planter and sugar planter manufacture indigo and sugar chiefly out of the raw material furnished to them by the native farmers; the cotton planter would require to do the same, and so would the tea planter; as soon as the natives became acquainted with the proper mode of cultivating the tea plant, they would raise it more cheaply than the European could. He would then gladly relinquish the culture to them, and confine his attention to the preparation of the tea for market upon a large scale, which, by means of his greater capital and superior intelligence and skill, he could do better and more cheaply than the native. It is not, therefore, of any importance to a European settler in India to hold land himself; his object should rather be to locate himself in a thickly-peopled district, where the land is already appropriated, and where he could purchase from the native farmers raw produce in large quantities, to be afterwards prepared by him by superior processes on a great scale for export to foreign markets. This is the mode in which a European could best employ his capital and skill in connexion with Indian agriculture; but he would utterly fail in attempting to compete with natives in the mere tillage of the soil, for he knows not how to cultivate the soil of India better or more economically than the natives themselves do. But, besides agriculture, there is a still wider field for the employment of European skill and capital in manufactures suited for consumption in India. Most of the manufacturing processes in use in India are rude and inefficient; as examples, I may notice those for the production of textile fabrics, cordage, leather, oil, pottery, carriages, machines, flour, watches, and those in most other trades, in all which there is an ample field for improvement by means of European skill. The large European army to be kept in India for the future will insure a very considerable supply of youths of native European parentage, or Eurasians, who will have to find a living in India; these will probably engage in trades such as the above to some considerable extent, and a large population, with a greater or less infusion of European blood, will eventually grow up. Skilled manufacturers, with adequate capital, youth, health, and enterprise, would probably find India a successful field for their occupations; but the mere agriculturist would never succeed in that country, and it would be a misfortune if any were to be tempted from this country to embark as a colonist in such a hopeless enterprise as the tillage of the soil in India.

7690. You are of opinion that European capitalists should rather set in motion native labour, whether in agricultural or manufacturing pursuits, than themselves undertake the labour?—Yes; because in that way their skill and capital could be most advantageously employed.

7691. Do you think that the application of agricultural machinery could be extended where these small sub-divisions of property exists, and where the law of succession encourages the partition of the land, or do you think that the enormous advances which may be expected before long to be made in the improvement of agricultural machinery will be restricted in India by the existence of this small system of cultivation?—I am of opinion that a large system of cultivation is favourable to the use of agricultural machinery, but I do not think that the use of machinery is at all incompatible with small occupancies. I conceive that machines might become the property of individuals, themselves not directly connected with agriculture, who would let them out to small farmers; in that way I think that machines could be employed by small occupants as well as by large.

7692. Would not the introduction of such machinery in India be a great means of employing European capital advantageously, and of eliciting the resources of India?—There are so many ways in which it might be employed, that I do not know that the most advantageous mode of employing it, in the present state of Indian agriculture, would be that supposed.

7693. You think that Indian agriculture, in its present state, is not susceptible of making use to any great extent of those improvements which have been made in agricultural machinery?—There are certain machines which might be made use of.

7694. You think it is rather a question for the future; but do you think that the use of such improvements is compatible with the present state of tenures in India?—I see nothing in the small occupancies to prevent the extension of agricultural machinery to India.

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7695. It has been stated to the Committee, that the land assessment of the surveyed districts of Bombay is burdensome; is that so, in your opinion?—My opinion is, that it is not so. In Mackay's Western India, a book published within the last few years, that question is minutely investigated; it is there stated that the survey assessment is roughly conjectured to be about 20 per cent. of the gross produce value; in the case of the cotton lands of Dharwar, Mr. Mackay estimates it at 25 per cent. (p. 335), on the supposition that the average rate of assessment in Dharwar is *Rs.* 1. 6. per acre; there is a great mistake in this, owing to his having divided the Khalsa acres by the entire land revenue, inclusive of cesses on enam lands, grazing, &c., to find the average rate; the average assessment of the Khalsa land in cultivation in 1856–7, was 13 annas 8 pies per acre; which, according to the late Mr. Mackay's calculation of the value of the cotton crop, amounts only to 16 instead of 25 per cent. of the gross produce. In consequence of this error in the average rate of assessment per acre, Mr. Mackay estimates further, at p. 340, the Government assessment as equal to 75 per cent. of the farmer's profit; but on the requisite correction in the rate being made, his estimate of the Government assessment is reduced to 37 per cent. of the farmer's profit; this appears very moderate, and far below the rent of land in England, where the rent is usually estimated at about equal to the farmer's profit; at the present high prices of produce, the survey assessment of the Bombay district does not, I am satisfied, exceed 10 per cent. of the gross produce; so that there can be no question that the landholder, and not the Government, receives the chief portion of the rent of the land.

7696. Mr. *Smith.*] You are speaking of Dharwar particularly, are you not?—Yes; to which Mr. Mackay's estimate referred; but what I have said applies generally.

7697. *Chairman.*] What has been the effect of the new survey on the condition of the district in which it has been introduced?—I think that the lightness of the assessment, and the little pressure of it upon industry, may also be proved by the great extension of cultivation which has taken place in all those districts into which the survey has been introduced where there were waste lands before; Mr. Mackay himself has estimated that extension, in the case of the Dharwar Collectorate, at 50 per cent. at 25 per cent. in Poonah, and 35 per cent. in Sholapoor. There has also been a large extent of cultivation in all the other districts; the whole was estimated by Mr. Green, in a pamphlet which he wrote upon the survey settlements, at about a million and a half of acres; I may say, then, that in the course of the few years during which the survey settlements had been in operation, they had caused about a million and a half acres of land to be brought under the plough. I would request permission to quote Mr. Green's opinion upon the general policy of the Bombay Government in matters of revenue, which originally appeared in the "Bombay Gazette," a paper which is well known not to be particularly favourable to the Government, but to be an independent paper; I refer to page 118 of his pamphlet; he there says, "He is bound, too, after reading some 20 volumes of revenue records, containing everything connected with the revenues of the Deccan Collectorates for the last four or five years, to state that the liberality with which the survey settlement has been planned and carried out pervades the whole of the correspondence and orders of the Government on the subject of revenue generally. In no instance where a low assessment has been proposed, or where large remissions have been granted, as in unsurveyed districts they frequently must be, has he met with a single phrase implying that the Government looked wistfully or regretfully at the abandoned revenue. The response, wherever it proceeds beyond the expression of a simple sanction, is invariably either a hope on the part of the Government that the remissions have been sufficiently liberal, or an expression of apprehension lest they should not have been so. It occurs occasionally that two revenue officers differ about the amount of remission to be granted, and the writer has been struck by the fact, in every case of this kind which he has met with, it is the more liberal officer whose opinions have been adopted by the Government, and this, although he may be the junior and subordinate one, considerations of discipline or of the propriety of maintaining authority having apparently no influence on the decision, whenever it is a question of the possibility of an oppressive collection." That shows that the Government was anxious for a liberal settlement.

7698. Mr. *Smith.*] Who was Mr. Green?—He was professor of literature at

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that time at Poonah College; subsequently he superintended a Parsee College in Bombay.

7699. *Chairman.*] What has been the state of agriculture in the districts of the Bombay Presidency conquered from the Peishwa during the last 40 years, while they have been under British rule?—It was apparently prosperous for a very few years subsequent to the conquest, exhibited in an extension of cultivation, due in a great degree to the disbanded troops of the Mahratta government taking to agriculture as a means of living; this was followed by a period of extreme depression, due in a great degree to increase of taxation, caused by the peculiarity of the British revenue system. I would here, with the permission of the Committee, quote from an article in the Bombay Quarterly Review, for April 1857, which was written by myself: "Before quitting this division of our subject, we would again press upon the attention of our readers that the change introduced by the British in the land revenue system, by which money assessments were substituted for levies in kind, and cash salaries for assignments of land for the support of troops and establishments, so lowered the price of agricultural produce, as to have, in all probability, doubled the pressure of the land-tax. Hence the outcry of the agriculturists, and the misery and pauperism into which they too often sank during the early years of our rule. From this deplorable state they are, however, being rescued by the liberal reductions of assessment which have been, and are being, carried out over British India by means of the several revenue survey departments, by the abolition of the transit duties, and other fetters upon commerce, and by improved internal communications. A brighter future for the Indian agriculturist is now dawning. It is evident, from the gradual and latterly rapid increase in the imports of silver, that the void in the currency, occasioned by the demand of coin to pay our money assessments, and to meet the requirements of an increasing foreign trade, is being rapidly filled up. Prices of agricultural produce for some years past have recovered from their former extreme depression, and are now perhaps in most parts of India sufficiently high to secure to the farmer a handsome return for his labour and capital. His taxation has been reduced by our revenue survey settlements, and will be still further reduced by every rise in the price of produce. Of all classes of the community, he will be most benefited by the construction of roads, railroads, canals, and the improvement of navigable rivers, as the cheapening of the cost of carriage, by the facilities for transport thus afforded, will be so much added to the price he will receive for his produce. Nearly the whole saving to the community in the cost of carriage will go into his pocket. The facilities for travelling now afforded draw the ryot from his native village. The narrow circle of his ideas is enlarged by intercourse with his fellows, while his practical skill is improved by the same means, and by observation of examples of better farming than his own. A marked improvement in agriculture has been observable in most of our provinces in the course of the last 10 to 15 years." My opinion is, that at present the state of agriculture is highly flourishing.

7700. You have mentioned the abolition of the transit duties as a great advantage to the population; do you know how far they are maintained at present in the states of native princes?—I cannot speak with certainty upon that point, but my impression is, that in the states of the larger native princes the transit duties are still maintained. These transit duties prevented foreign commerce, because, where produce had to be transported long distances, it became so burdened with these duties before it got to the end of its journey, that they amounted, in many cases, to an absolute prohibition of commerce altogether.

7701. Can you mention any other oppressive duties or impediments to commerce that exist in the native states besides the transit duties?—I think that in many of the native states the system of taxation altogether is oppressive.

7702. Then much remains to be done with regard to the removal of impediments to commerce in the native states?—Yes.

7703. With reference to the cultivation of the ground, do the natives in the Presidency of Bombay employ much manure, or do they waste it, as we hear they have done in many other parts of India?—Manure, in the Presidency of Bombay, can only be applied profitably to the land where the climate is sufficiently moist, or where means of irrigation are at command; where the climate is dry, manure is found to burn up the crops; and that is the reason why manure is not used in certain parts of the Presidency of Bombay. Where the climate is more moist,

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manure is used at present, and the natives are perfectly aware of its value; and in some cases use it very economically.

7704. Is it ever used as fuel?—Yes; in all dry districts where the manure is not used for the land, it is burnt as fuel.

7705. Will railways be of advantage as a means of supplying them with other fuel instead of that which they have?—I have no doubt that railways will be of immense advantage in every possible way.

7706. Are there fine cattle in any parts of the Presidency of Bombay, with which you are acquainted?—Yes; in Guzerat there is a very large breed of cattle, fully equal in size and weight to the ordinary cattle of this country; but in the Deccan and the other poorer countries, the cattle are small.

7707. Am I right in inferring from your previous remarks that, in your opinion, a larger metallic currency is required under the British revenue system than under the native system?—Very much larger in my opinion, and if the Committee would allow me, I would quote a passage from the same article in the Bombay Quarterly Review: "The Anglo-Indian financial system differs from that of the native governments in the following most important particulars: the payment of the army, police, and other public establishments in cash; the collection of the land tax in money, instead of wholly or partially in kind; the transfer of a portion of the Indian revenues to England for the payment of the home charges, usually and correctly styled 'The Indian Tribute;' the creation of a funded public debt, of which the interest has to be paid in cash. The charges to be defrayed out of the Indian revenue, being of an inflexible character, could only be met in years of deficient collections by borrowing, and hence they involved the creation of a funded public debt; but they brought about a more important consequence still, for the payment of troops and establishments, and the interest of the public debt, in cash, of necessity involved the collection of the revenue in cash too, and the latter measure, however little thought of at the time of its introduction by our Indian land revenue collectors and financiers, has produced a momentous revolution in the value of property and bearing of taxation in India, far exceeding in degree, but similar in kind, to that effected in England by the return to cash payments in 1819. Under native rule, the land tax was the chief source of revenue, and was in great part either levied in kind, or assigned for the support of troops and establishments. There was only a small portion of the whole collected in money, and transferred from the local to the central treasuries. The standing military force kept and regularly paid by the Government was small. The bulk of the troops consisted of a kind of militia furnished by jagheerdars and other landlords, to whom the collection of the taxes was assigned for the support of these levies, and for conducting the civil administration of the districts placed under their jurisdiction. The troops or retainers of these feudatories were in great measure maintained on the grain, forage, and other supplies furnished by the districts in which they were located. The land tax was in consequence either wholly or partially taken in kind, and what was collected in money was generally paid away to parties on the spot, and thus quickly returned into circulation. The hereditary revenue and police officials were generally paid by grants of land on tenure of service. Wages of farm servants and agricultural labourers were paid in grain. Grain, also, was the common medium of exchange for effecting petty purchases in country towns. The farmer's or labourer's wife took a basketful of grain on her head to market, instead of a purse of money, and therewith purchased her week's supplies. The people lived in a rude and simple fashion, having few wants, and knowing little of luxuries. In inland districts the chief imports were salt, metals, and a few luxuries for better classes; but the value of the whole was inconsiderable, and the exports with which these were purchased were of course correspondingly limited. In this state of things money was hardly wanted at all, and a small supply of coin sufficed for the realization of the public revenue and the settlement of commercial transactions; but while the quantity of coin in circulation was small, the prices of agricultural produce were well sustained, owing to the limited extent of the land in cultivation and the large demand of food for the numerous body of the people employed unproductively as soldiers, retainers, and public officers of all kinds, and the difficulty of supplementing deficient harvests by importations from more favoured districts, through the want of good roads, or other facilities for the transport of bulky produce. The foreign commerce of the country at large was necessarily confined within very narrow limits. It was only the products of the coast districts,

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tricts, and the more valuable commodities of the interior, such as indigo and manufactured goods, that could bear the expense of carriage to the ports of shipment, so as to admit of being exported. India, at that time, coveted few of the productions of foreign countries, and her most important imports were the precious and common metals, broad-cloths, jewels, and other luxuries for the wealthy. The innovations made in the revenue and financial system by the British, have, however, effected the most sweeping changes in all of these particulars, and we shall now endeavour to trace their operation. On the territory of a native prince passing under the sway of the Company, the first steps taken were, to substitute regularly paid and disciplined troops, located in military stations, for the rural militia of the native feudatories, and a staff of European and native officials receiving fixed salaries, in place of the former mamlutdars and revenue farmers, with their followers, who paid themselves by perquisites and other indirect gains, but received very trifling emoluments from the treasury of the State. The next, and an all important step in Anglo-Indian administration, was to collect the land tax in money, instead of realising it in kind, according to the practice which had virtually, if not nominally obtained to a great extent under native rule. The immediate and inevitable consequence of this general enforcement of money assessments was, that the amount of coin previously circulating, and sufficient for the adjustment of the limited transactions connected with revenue and commerce under the native system, proved quite inadequate for the settlement, without a derangement of prices, of the greatly enlarged transactions resulting from the British system. Under the native system, the sale for cash, of a small part of the agricultural produce of a district, sufficed to provide for all its liabilities connected with taxation and commerce. Under the British system, on the contrary, twice, or perhaps three times the quantity of produce had to be sold in order to provide for the same objects, owing to the whole amount of the land-tax being demanded in coin. But the supply of coin remaining as before, the effect of this increased demand for it was, of course, to enhance its price. The coin in circulation had to perform double or treble the work it had accomplished before. The ryot requiring more cash to pay his money assessment had, of course, to bring more produce to market, which occasioned a glut, and brought down prices; and this state of things was aggravated by the demand for grain and forage in the country markets being less than before, owing to the disbanding of the irregular force which had been kept up by the native jagheerdars and other functionaries of the former Government, and to the increased production due to an extension of cultivation by means of these disbanded levies. Prices fell more and more until, in many cases, our collectors found it to be wholly impossible to collect the full land assessment, and large remissions had to be annually made. The village grain merchants, who are also the village bankers, deprived of a sufficient market at their own doors, were compelled, in order to find money to supply their constituents with, to seek more distant markets for the disposal of the produce left upon their hands in liquidation of advances previously made by them to the ryots. This awakened a spirit of greater enterprise and activity among the commercial classes which was gradually communicated to the ryots, and laid the germ of that active foreign trade which now advances with gigantic strides, and has already penetrated into the remotest recesses of the interior. This collateral benefit conferred by the British plan of administration, has fairly set free the spirit of progress long spell-bound in the native mind under the iron fetters of Asiatic customs, and far more than compensates India for the period of suffering in which it originated."

7708. Are you of opinion that the present demand for silver in India is a result which should be viewed with satisfaction by manufacturers of this country, or not?—I think it should be viewed with great satisfaction, because it indicates that the wealth and capital of India are increasing, and it is only from an increase of the wealth of India that we can ever hope to increase to any great extent our exports to that country.

7709. Their power of consumption will increase with their wealth?—Undoubtedly.

7710. Some allusion has been made to the substitution of a gold instead of a silver standard; what is your opinion upon that subject?—I will refer, if the Committee will permit me, to what I have stated upon that subject in the article from which I have already quoted: "There are, however, most grave objections to this proposal, which far outweigh, in our opinion, any prospect of advantage from an enlargement of

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of the foreign trade of India. The Indian public debt of nearly fifty millions sterling has been contracted in a silver standard, and without a flagrant breach of faith with the public creditor; the obligation to pay principal and interest in silver could not be evaded. The disbursements of the Indian Government are in great part made up of small sums under 10 rupees, on account of the pay of the native soldiery, and revenue and police establishments, and the wages of labourers employed on public works. In the ordinary intercourse of native life, the great majority of cash transactions are for very small sums indeed; and even the rupee, which is only the value of 2 *s.*, has been found to be an inconveniently large coin for general use among the people; quarter rupees and two anna pieces are more sought after; so that even the smallest size of gold coin, capable of being conveniently handled, would be found to be greatly too valuable for the general purposes of an Indian coinage. Even if a gold standard were to be introduced, the subsidiary coinage would continue to be silver, and of this the effective circulation would consist, even after the change. Large payments alone would be made in gold; and it would be found to be as difficult to force the latter into circulation, as this has proved in the somewhat similar case of bank notes. The latter are useless, except in a very limited class of transactions, beyond the Presidency towns, and so would a gold coinage be found to be. The Government, on making the experiment, would soon find itself in the anomalous and ruinous position of having to receive gold in payment of the taxes, and disburse silver for the payment of its troops and establishments. The land revenue, and many other taxes, being of fixed amount, would become of less and less value with every depreciation in the value of gold, as compared with silver, as any fall in the value of the standard would be tantamount to an equivalent reduction of taxation. Such a state of things could not be permitted to continue, and if committed to it, the Government of India would soon be involved in financial difficulties. Again, by the substitution of a gold for the present silver standard, India would be deprived of the legimitate relief as regards the tribute that will accrue from any future depreciation of the value of gold as compared with silver. All the home charges are estimated in gold or pounds sterling, while the Indian taxes, from which they are paid, are collected in silver. Should silver then rise in value in relation to gold, as is most probable, exchange would become more favourable for remitters of money from India to England. The Indian Government would thus gain in effecting its remittances for the payment of the home charges, and the sum thus saved might be very large. The tribute paid annually to England will probably fall little short of six millions sterling, when the Indian railway system is complete, and a rise of 2 *d.* in the exchange value of the rupee would effect a saving of 500,000 *l.* or half a million sterling, in making the remittances. But it seems to be quite within the limits of possibility, that exchange may rise 4*d.* or even 6*d.* on the rupee, when the saving would be 1,000,000 *l.* to 1,500,000 *l.* per annum, representing a capital of twenty to thirty millions sterling, which, in that case, would be the loss sustained by the Indian Government in this single item of finance, by the substitution of a gold for the present silver standard." The revenue of India, especially the land revenue, is fixed; and, if any alteration in the value of gold and silver were to occur, and if gold were to fall in value, the resources of the Indian Government would fall in proportion. If gold were made the standard, all transactions must be estimated in gold, and India would be deprived of the benefit which would result from the alteration, in the case of the home remittances.

7711. Mr. *Smith.*] Might not gold be permitted to be circulated at a certain rate, and that rate be changed from time to time?—If it is not made the standard; it is any change in the standard that I object to.

7712. You do not object to the circulation of gold, but to the establishment of gold as a standard?—I object to gold as a standard.

7713. Mr. *Danby Seymour.*] You are aware that it has been changed in many countries within the last 40 years, are you not?—I am aware that, in the case of a double standard, it has.

7714. There is a double standard in France, is there not?—Yes; but, as regards India, my opinion is that a standard of gold would not be so convenient as a standard of silver.

7715. *Chairman.*] What is the present state of trade and manufactures in Bombay?—I think there has been a very considerable increase of the external commerce of the Bombay Presidency within the last twenty-five years. I have not the

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statistics of this increase by me to refer to, but I imagine that I am within the mark in estimating that both exports and imports have doubled in that period. There is also a striking increase visible in the internal trade, and consumption has largely increased; population has also largely increased, but not, I think, to the same extent as consumption; and my inference is, that the condition of the masses has been improved at the same time that the trade and wealth of the community, as a whole, have increased. The consumption of British manufactures has largely increased, but the effect has not been, as is generally supposed, to destroy native manufactures. I entertain a decided opinion that the population supported by native manufactures in the Bombay Presidency is greater than it has been at any time during the present century. I have visited nearly all the manufacturing towns and villages of the South Mahratta country, and though the weavers very generally complained of their having been obliged to submit to a great reduction of wages, in consequence of the low prices now obtained for their goods, owing to the competition of British manufactures. I could not perceive anything like a general decay of manufactures; on the contrary, in many villages and towns the number of looms at work is now greater than ever.

7715*. Have they adopted any improvement in their machinery?—No, not that I am aware of; but what is remarkable enough is, that native goods produced in the South Mahratta country are still exported to the coast, and even to the island of Bombay itself, where British manufactures compete with them on the most favourable terms. The masses of the population of the Bombay territories, both male and female, are still clad in the products of native looms.

7716. Has competition reduced the price?—Exceedingly.

7717. Therefore, a manufacturer cannot be so well off now as he was before? —I do not say that the actual condition of the weaver is equal to what it was before.

7718. Mr. *Danby Seymour.*] Does not a manufacturer use English yarn to a great extent now?—Yes.

7719. And that would account for his being able to compete, would it not?—No doubt; the cost of the article is very much reduced, and the population has benefited by it.

7720. Mr. *Baillie.*] Is there much cotton yarn exported from England to the Bombay Presidency?—A very large quantity.

7721. *Chairman.*] Can you give us an idea of the relative amount within the last 10 years?—Imports of cotton yarn have increased very much; but I cannot state the amount.

7722. Mr. *Danby Seymour.*] There are spinning companies established in Bombay now, are there not?—Yes.

7723. The shares in which companies are at an enormous premium, I believe? —I believe they were at an enormous premium. Mr. Landon has established a mill in Guzerat. Among other evidences of progress I would mention that great additions to the size of towns and villages are visible; and the new buildings are frequently built in a superior style to the old; in the South Mahratta country there was hardly a house with a second story to be seen in any part of it when I went there in 1843, and now upper storied houses, built since that time, may be seen in considerable numbers; in Khandeish also, a very considerable number of new houses, built in a superior style to what previously obtained, may be seen in all the more considerable towns and villages; produce is now very generally conveyed in carts; when I went to India, there was hardly a single cart suitable for the conveyance of goods to be seen anywhere in the Deccan; the traffic of the country, owing to the want of roads practicable for wheeled vehicles, was conveyed upon pack bullocks; now hundreds of carts pass and re-pass daily upon all the great roads, and when not so employed they are available for agricultural purposes; the farmers have become the great carriers of the country, which is an occupation they never were engaged in before.

7724. Mr. *Baillie.*] Do they use horses or bullocks in their carts?—Bullocks.

7725. Mr. *Danby Seymour.*] You cannot go beyond Sattara in a carriage, can you?—Yes. I have travelled over every part of the Deccan frequently.

7726. *Chairman.*] On roads do you mean?—There are not many made roads.

7727. Mr. *Danby Seymour.*] Is there any post-cart beyond Sattara?—No; none.

7728. *Chairman.*] Did not your statement imply that there are many roads in the Presidency of Bombay?—I have not stated that. I said that in con-

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sequence of the want of roads, when I went there there were no carts; the roads have brought the carts; but I do not mean to say that the roads are general.

7729. There are more roads and more carts?—Yes; there has been a great increase of carts. One brother of a family frequently manages the paternal acres, while the others are busily engaged as carriers in transporting merchandise. The total produce, and especially the exportable products, must have been enormously increased by these improvements, which have been especially favourable to the interests of the agricultural and trading classes; roads of late years have been extensively constructed with the greatest benefit. In the South Mahratta country, when I went there in 1843, there was only a single road to the coast, but now other roads and numerous cross-roads have been made, and are in the course of construction; many of these roads are not bridged, and cannot be considered better than country roads; but they are, nevertheless, of great importance to the community. What has been done in the way of road-making has, however, been chiefly effected within the last 10 years, previous to which time the communications of the country were very much neglected; in Guzerat especially so, and to this day little, I understand, has been done there to improve the roads or facilitate the shipment of goods. The harbours everywhere, it may be added, along the coast are deficient in conveniences for facilitating the loading and discharge of cargoes by the country boats. Upon the whole, however, the Presidency of Bombay, in my opinion, has made great advances in commerce, manufactures, population, and civilization, during the last 25 years, to which my acquaintance with it extends.

7730. The whole of the improvements to which you have now referred are of importance not only to the natives, but to European settlers generally?—Yes; they are of very great importance to them.

7731. What observations have you made with regard to the readiness of the natives to adopt improvements suited to their circumstances, which have been introduced by Europeans?—I think that the natives may be said to be upon the whole rather ready than otherwise to adopt improvements, notwithstanding their habits and customs; I consider them to be patient, docile, and intelligent, with great aptitude for the mechanical arts; all my surveyors were natives, and very efficient; so were the Eurasian clerks. The railway engineers in Bombay have expressed themselves very favourably to me of the natives as artificers, and have said that they were quite astonished at the facility with which they adopted European methods of using tools, and working in the European fashion.

7732. All this is in favour of the opinion which you have expressed before, that the great advantage of a larger European population would be the means it would afford of employing the natives?—Yes.

7733. This applies to the more mechanical arts as well as to agriculture and manufactures, to which your observations have applied before?—Yes; I have already spoken of the extended use of carts, which have become general in Bombay, in consequence of an improvement in the communications of the country, which shows that the natives are not averse to the adoption of novelties; I may mention that the New Orleans cotton, which was introduced through the instrumentality of the Government about 10 or 12 years ago in the Dharwar collectorate, is now grown largely in the South Mahratta country; from the return which I now hold in my hand, it appears that in 1856–57, 112,000 acres were planted with New Orleans cotton in the South Mahratta country, while the first plantation of this variety was made in 1845, when 2,000 acres were planted, so that in 12 years, it has increased from nothing up to 112,667 acres; I would also cite the case of the introduction of American saw-gins in the Dharwar collectorate; I believe that between 1848 and 1852 there were 192 saw-gins sold in the South Mahratta country, at the price of 19,335 rupees. I understand that that was the time when the natives first began to purchase the saw-gins.

7734. Mr. *Smith.*] Those were the hand saw-gins, were they not?—Yes.

7735. They were turned by a wheel?—Yes; I have no return from 1852 to 1855, but from 1855 to the 12th November 1857, a period of two years and a half, 198 saw-gins were purchased at the price of 25,470 rupees.

7736. Then the use of saw-gins has considerably increased?—It has increased in consequence of the impossibility of extending the culture of cotton in the South Mahratta country, without improvements in the machinery for cleaning it; it used to be all cleaned by means of the foot-roller, a most inefficient implement.

7737. Of course these saw-gins would never have been introduced, but for the communication with Europeans?—No; they were entirely introduced in consequence of the efforts of Government.

7738. Can you trace any greater activity or enlarged observation on the part of natives since the introduction of the improvements which have been made in machinery?—I think that they have improved very much, and the very fact of their availing themselves of these machines is, I think, a proof of the progress that they have made.

7739. Mr. *Willoughby.*] Does not saw-gin cotton bear a higher price in the price current than any other species of cotton?—I believe it does, and I believe that that higher price is the cause of the cultivation of this particular kind of cotton having been extended.

7740. Has the introduction of the saw-gin materially improved the mode of preparing the cotton, and is the cotton now of more value than it was before?—I believe it is of much more value; it is much better cleaned. I believe that the introduction of the saw-gin is due, in the South Mahratta country, to the people there having found that it would be useless to raise more cotton; as they could not clean it by the ordinary means. The prices of cotton rose to be so high as to make it a highly profitable cultivation, if they could only obtain the means of cleaning it; the saw-gin gave them the means of cleaning it, and they adopted it.

7741. Mr. *Smith.*] You are aware, are you not, that it was the invention of the saw-gin that led to the enormous increase in the cultivation of cotton in America?—Yes.

7742. It was not until that machine was invented that it was possible to produce cotton at a cheap rate?—No.

7743. Is it not the case that the advantage of the saw-gin over the churker is not so much in improving the staple of the cotton, as in cleaning a larger quantity of cotton?—That I believe is the great advantage of it.

7744. Are there any saw-gins there that are worked by bullocks?—I believe not now. There were originally; but the natives prefer the hand-gin in that part of the country. They find it can be accommodated in their own houses without involving expensive alterations and is in other respects more suitable.

7745. You have been asked some questions as to whether it would be advantageous with a view to the encouragement of a European population, to have greater facilities for forming large landed estates in Bombay; do you think it possible to form a landed aristocracy in that part of the country?—I do not think it possible, having a due regard to the interests of existing proprietors, nor do I think it possible anywhere in India to create a permanent race of large landed proprietors; the customs of inheritance appear to me to be wholly adverse to the possession of large properties, and they would, in my opinion, long ago have broken up all the large zemindaries of Bengal, but for the circumstance of their being artificially held together by the revenue system; I believe that the customs prevailing with reference to inheritance would inevitably break up any large properties.

7746. You do not, therefore, believe that European settlement could be extensively introduced into Bombay by large tracts of land being held by those settlers?—I do not think it at all possible, having a due regard to the rights of present proprietors of land.

7747. Mr. *Baillie.*] Why not, if the lands were purchased from the present proprietors?—There is no obstacle whatever in the Bombay Presidency to Europeans settling there, and purchasing as many properties as they like; there is no obstacle at present to their acquiring property to any extent, but it must be acquired by purchasing up individual property.

7748. Mr. *Mangles.*] Is there any discouragement on the part of the Government?—Not the least, I believe.

7749. *Chairman.*] You have said that, in your opinion, large estates would not succeed?—I have said that I think the purchase of land is not the most advantageous way for a European to employ his capital in India.

7750. You think it would be more profitable to employ his capital in encouraging the small cultivators?—I think so; I might add, that the condition of all the large estates, and of the large proprietors in the Bombay Presidency, is one that is not at all encouraging as regards any attempt to extend the system; I consider the large landholders of Bombay, such as the jagheerdars of the South Mahratta country, and the talookdars of Guzerat, are generally a very ignorant, debauched, and useless race, who do very little for their estates.

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7751. Do you think that any alteration in the constitution of the Supreme Council might be beneficially made, with a view to the encouragement of settlers in India?—I am of opinion that the administration of the Bombay Presidency was very much paralysed by the centralization of supreme authority in Bengal during the greater part of my residence in India; there seemed to me to have been a want of sympathy between the central authority in Bengal and the subordinate authorities.

7752. You think that a more local Government would be more favourable to British settlement?—I think so; I think that a reference to Bengal during the most part of my stay in India, was the wet blanket that stifled most of the Bombay projects for developing the resources of the country, and that I think was in a great measure owing to the different circumstances, and the different state of affairs existing on that side of India: in Bombay, roads and means of communication were above all things necessary for the development of the resources of the Presidency; we have a line of almost impassable mountains running along the coast, from one end of the Presidency to the other, and the regions from which exports would naturally be looked for, lying behind these mountains; of course roads were absolutely necessary, and a large expenditure for that purpose was necessary in Bombay; it was not so in Bengal to the same extent; there was an immense river, which brought the produce of a great part of that country to the doors of the merchants of Calcutta; but the great reason appears to me to be, the want of intercourse between the supreme authority in Bengal and the local authorities in Bombay.

7753. You think there was too much centralisation?—The Bombay authorities had no means of advocating their views in the Supreme Council.

7754. Mr. *Mangles.*] Might not the circumstance that Bengal had to find the money have had some effect, do you think?—No doubt it had.

7755. Did the Presidency of Bombay ever pay its own expenses?—No; but there were expenses charged to it which ought to have been charged to the general revenues of India.

7756. Mr. *Willoughby.*] The Indian navy, for instance?—Yes; but for the sake of developing the revenue of the Bombay Presidency improved communications were beyond all things required; in a mere financial point of view they were necessary; that, as far as I could judge, did not seem to be appreciated by the Bengal authorities, which I attributed to their not being aware of the real circumstances.

7757. Mr. *Mangles.*] You left India before the great acceleration of public works began, did you not?—Just about that time.

7758. Mr. *Danby Seymour.*] What was the date of your leaving India?—Eighteen hundred and fifty-three.

7759. Mr. *Smith.*] Have you any doubt that Bombay might be made to pay its own expenses, if its resources were properly developed?—I think that under a proper system of administration it eventually might, but I do not think it at all fair to confine the application of the revenues of one Presidency entirely to that particular Presidency; Bengal is a magnificent country with numerous navigable rivers, and of course has a large surplus revenue.

7760. Mr. *Danby Seymour.*] Do you not think that a country like Bombay ought to pay its own expenses?—That would depend on circumstances.

7761. The salaries and other expenses?—Yes, and its requirements.

7762. *Chairman.*] Do you think that the want of local knowledge on the part of the Government would be best supplied by an enlargement of local representation in the Supreme Council, or by separate local governments in the Presidencies?—I think there must be a Supreme Government, but I think that efficient administration in the Bombay Presidency will never be secured while the supreme power remains in Bengal.

7763. Where then would you put the supreme power?—I think that there ought to be a great freedom of action and a power of legislation in the local Government; and I would prefer having the supreme power, as far as the Presidencies are concerned, in England; because the officers in the subordinate presidencies are constantly in the habit of resorting to England; and would have opportunities of pressing their views and suggestions upon the attention of the supreme authority, which they never could have while it remains in Bengal; Bengal is quite a foreign country to the officers of the minor presidencies.

7764. Mr. *Vansittart.*] Do you mean to say that you would do away with

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the office of Governor-General of India ?—As far as regards local administration I would.

7765. You would make each Presidency entirely separate ?—Yes.

7766. *Chairman.*] Then local government combined with the home Government would be what you would recommend ?—Local government would be my panacea.

7767. Mr. *Vansittart.*] In the absence of the Governor-General, what would be the connecting link between the four presidencies ?—I have not expressed an opinion that it would be practicable to do away with the office of Governor-General; political and other considerations may prevent that; it is a subject to which I have not given my attention particularly; but as regards the Government of the Presidency, I am decidedly of opinion that England is a better locality for supreme authority than Bengal.

7768. *Chairman.*] Do not the greatly increased facilities of communication with England point in that direction ?—As regards local administration, I think so.

7769. You think considerable danger arises from the present system of centralisation ?—I think so. I think that it causes a community of feeling and of aims throughout the whole of India, which may eventually become extremely dangerous to British supremacy. I think it would be much better to break up India into Presidencies, and to give them local views and local attachments.

7770. Mr. *Vansittart.*] As you appear to be rather unfavourable to the office of Governor-General, how would one Presidency communicate with another, if there were no presiding head ?—The Committee will bear in mind that I do not make any suggestion for the abolition of the office of Governor-General. If you have one supreme authority promulgating laws affecting the whole population of India, you necessarily bring about a state of things in which everybody throughout India is affected; if there is an agitation for the repeal of a particular law, it will be an agitation that may extend from one end of India to the other.

7771. You speak of the dangers that arise from a central government, and you say that it leads to a community of aims and feelings that might be dangerous ?—Yes, I think that if there be any one subject in which the whole population of India would be interested, that is more likely to be dangerous to the foreign authority than if the question were simply agitated in one division of the empire, if a question were agitated throughout the whole length and breadth of the empire, it would surely be much more dangerous to foreign authority than a question which interested one Presidency only.

7772. Mr. *Danby Seymour.*] Is what you mean this, that all the people of India might be excited about the same thing, at the same time ?—Yes.

7773. Mr. *Kinnaird.*] Among the reforms that you would recommend, would you include the abolition of the office of Governor-General?—I do not recommend it, because I have not considered the question sufficiently.

7774. Mr. *Danby Seymour.*] Your opinions are not at present unfavourable to it ?—My mind is not made up on the subject.

7775. *Chairman.*] Do you consider that the number of European officials are too few at present for the civil administration ?—I think that greater efficiency might be obtained by the employment of a greater number of officers, but I do not think that on the present scale of remuneration the number of officials could be greatly increased.

7776. Do you think it would be a good thing if there were a more close superintendence of the native officials, by means of European officials, than there is at present; would the natives be better public servants if they were more under the superintendence of Europeans than they are now ?—I have no doubt that if the number of European superintendents were increased, a greater amount of efficiency might be obtained; but at the same time I think that, even with the present superintendence, considerable additional efficiency might be obtained by certain improvements connected with giving a more adequate scale of remuneration to the subordinate native employées. I am of opinion that the natives may be made very efficient public officers indeed, under proper superintendence.

7777. By proper superintendence, do you mean superintendence by Europeans ?—Yes; I think they might be made as efficient as the present state of civilisation admits.

7778. Mr. *Willoughby.*] Is not the principle in Bombay that of employment of natives under European superintendence ?—Yes.

7779. *Chairman.*] Do you think that that system might be beneficially extended ?—

extended?—I think that in Bombay a tolerably efficient administration, as efficient an administration as the circumstances of India will admit of at present might be effected without any great increase of European agency; but I think that an increase of European agency would undoubtedly tend to give increased efficiency to the administration.

7780. Mr. *Smith.*] Would not an increased rate of pay to native officials increase their efficiency?—Increased pay, and also in some respects a better system of management; for instance, in the revenue departments of Bombay, with which I am better acquainted than I am with any others, I think that promotion among native subordinates rests too much with the Europeans, and that the natives are too entirely dependent upon them.

7781. Mr. *Vansittart.*] As regards their pay do you mean?—Both as regards their pay and their position.

7782. What is the pay of a Suddur Ameen?—Very handsome. I am speaking of subordinate revenue establishments; at present, promotion almost invariably rests with the collector, who, of course, has no means of knowing the merits of the numerous subordinates of his establishment; he is obliged to trust to one or two natives about him who have his ear; these natives become very influential, and it is found that the only way to insure promotion is to secure the influence of those parties who are supposed to be influential with the collectors; I think that the present system might be greatly improved by constituting the revenue clerks who are now the people from whom our native superior officers are drawn into a service, and regulating their promotion up to a certain rank by fixed rules, instead of leaving this to the hap-hazard selection of the collectors. I think that on considerations of fitness, ascertained by periodical examinations and seniority, promotions to the lower grades of the service, might always be made by the collectors, and as to the higher grades I would regulate them by a principle of selection combined with examinations as at present.

7783. Mr. *Danby Seymour.*] How high would you have them?—I would have them as high as the head karkoon or head clerk in the native establishment of a mamlutdar; up to that point, I would regulate the whole of the promotions, so as to put it out of the power of the clerks of the collectors to establish an influence which is most corrupting to the whole establishment.

7784. Mr. *Willoughby.*] Are you correct in saying that the collectors appoint to the whole of the revenue offices, or do you exclude the highest offices?—Yes, I exclude them; I am speaking of the lower grades.

7785. Mr. *Danby Seymour.*] To whom would you give the power of appointing to offices above that of the head karkoon?—At present, these appointments are recommended by the collectors through the Revenue Commissioners for the sanction of the Government, and I do not recommend any alteration.

7786. *Chairman.*] I understand you to say, that at present, a system of bribery is carried on?—Yes; I think that bribes are very frequently taken by parties who are believed to have the ear of the European officer, in order to secure advancement. They think that is the most effectual way to obtain what they want.

7787. Mr. *Villiers.*] Is that a matter of notoriety?—Yes.

7788. *Chairman.*] Do you think that bribery of that kind is universal?—No; I should say not.

7789. In what way is it that bribery is in operation there, is it in regard to the decision of revenue cases?—No, not at all; the bribes are given by parties who think that is the best means to obtain promotion.

7790. Do you mean that a subordinate bribes a person who has the ear of the collector?—A person who is supposed to have the ear of the collector; the objection I have is, to the corrupting influence it has upon the establishment. It induces the members of the establishment to resort to this sort of back-stairs influence, rather than endeavour to become really fit and efficient officers.

7791. .] But that unfortunately shows, does it not, that there is corruption among the people who approach the collectors?—Yes.

7792. You would not say that that corruption is only manifested when there is a question as to the promotion of a subordinate; it is manifested, is it not, with regard to any question. The collector has to decide, and when he has to consult the person who is supposed to have influence with him?—It would depend of course upon the mode in which the collector chooses to communicate with the parties.

7793. I understood you to say, just now, that some native generally has influence

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fluence with the collector?—As regards the promotion of his native establishment.

7794. Do you mean that the collector exercises his own judgment on questions of revenue, arrears of payment, and so on; but that when there is a question of promotion, he depends upon a native?—He necessarily must depend upon a native, because he has no other means of ascertaining the fitness, and determining the claims of the various parties; he must refer to somebody.

7794*. But does that apply to the discharge of his duty as collector, when questions of doubt are brought before him?—Not generally; it depends a great deal upon the class of cases; on all ordinary occasions I should say a collector is not dependent if he is an efficient officer.

7795. How is it that these natives approach the collector with reference to any question of revenue; are there petitions sometimes presented to him?—Yes.

7796. In what language are those petitions usually written?—In the language of the applicant.

7797. The petition is read by the scribe, is it not?—Yes; it is read to the collector in the native language.

7798. And he depends upon the person who reads, reading correctly?—Yes; but the petition is read so rapidly that I do not conceive it possible, or I consider it next to impossible for the clerk to read it incorrectly.

7799. Perhaps it is equally impossible for the collector to understand it?—If he does not understand the language, of course he will not understand the petition; but if he understands the language, he derives his information, as to the whole complaint, from that reading.

7800. But if the scribe is not an honest man he may read inaccurately what he has to present to his collector, will he not?—There is ordinarily a particular hour in the day assigned for hearing petitions. The petitioners come up with their petitions in their hands. Perhaps there may be 20 or 30 of them all given in at the same instant. These are read, as they happen to come, by the clerk. I do not conceive it to be at all probable that the clerk would attempt to read anything that is not in the petition.

7801. When does the decision upon the petition take place?—It depends upon what the question is. If it is a question which the collector feels he can determine without requiring further information, he decides it at once upon the spot.

7802. Mr. *Danby Seymour.*] And these petitions, in many cases, relate to rights in regard to land, do they not?—If there are any complicated questions of that kind, they are generally referred for further information.

7803. Mr. *Villiers.*] On all these matters the collector must be dependent a good deal upon the natives, must he not?—My reply to that question is, that he is not dependent upon them; an efficient collector may apply for information, but judges for himself.

7804. I understood you to say, just now, that the collector must depend upon the native who brings the matter before him?—No; I was speaking then with reference to promotion.

7805. What is the office called which the native you refer to fills; how is he designated?—He is generally called a reader, or karkoon.

7806. He reads to the collector the petitions that are presented?—Yes.

7807. And the collector depends upon him to read them accurately?—Yes, but as far as my observation has gone (and it has been pretty extensive, for I have been in the habit of receiving these petitions in great numbers in the course of the survey settlements for many years past), the native readers are not in the habit of reading anything but what is in the petitions, if they did they would be immediately liable to detection, because there is almost sure to be somebody present who is interested in the matter, and if he were to hear a false statement read, he would immediately bring it forward.

7808. Then there are persons present while these petitions are being read, who understand the language, who comprehend what it is that is brought before the collector, and who could check any inaccuracy?—Very often persons may be present who are interested in objecting to the claim of the petitioner.

7809. That is possible?—Quite possible.

7810. Is the person who would read these petitions the person who would be consulted with reference to promotions?—Yes, or probably a superior officer. Not exactly the native collector, but the head native secretary.

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7811. In such a matter as that of promotion he would not be trustworthy?—In some cases, I believe, he would be trustworthy; I should be sorry to say he is never trustworthy, but there are cases, I think, in which he would not be so, and I think it would be an improvement if the power were taken out of his hands.

7812. Mr. *Willoughby.*] The petitions are presented in person, and are not given to any native, in the first instance, are they?—Yes, generally speaking, that is so.

7813. They are read off in the presence of the petitioner?—Yes.

7814. And the collectors themselves are usually conversant, are they not, with the language in which the petitions are read?—In Bombay, as a general rule, I think they are; in some cases I know petitions are read in Hindostanee.

7815. Mr. *Danby Seymour.*] But there is no check upon the scribe, if he reads incorrectly, is there?—Yes, the petitioner is there, and often the party who is opposed to him.

7816. Is he necessarily present?—No; but the petition remains as a public document, and therefore the native officer would be much too acute to read incorrectly.

7817. Is it not a fact that the public are very often kept out of courts of justice by the police in India?—I know nothing about that.

7818. Mr. *Villiers.*] It has been stated here, on considerable authority, that there is hardly any civil European officer who is not more or less under the influence of some native; does that coincide with your observation?—My impression is that there is a large number of European officers in the Bombay Presidency who trust to their own judgment in the discharge of their duties; some I have no doubt do trust to a considerable extent to the opinions of the natives; in matters as to usage, and of course on many subjects, a European officer without the aid of natives, could not acquire the information which is required to enable him to come to a correct decision on any question brought before him, and therefore he must consult natives; but after he has obtained their opinions, he often does judge for himself.

7819. Mr. *Mangles.*] The European officers are not in general, according to your experience, what is called "in the hands" of native officers?—No, not generally.

7820. Are the petitioners usually present when their petitions are read?—Invariably.

7821. Would they not cry out very loudly if they heard the karkoon reading a different story from that which they had written down?—I do not think that a karkoon could venture to read incorrectly; I never knew an instance of it in my experience.

7822. Are not petitioners in the courts of Bengal, as they are in Bombay, very prompt in asserting their claims?—No doubt they are; but I have had no practical experience of the working of the Mofussil courts; I have never had occasion particularly to inquire into that matter.

7823. Did you ever observe any backwardness on the part of the natives in asserting their rights and claims?—No, I think that they are generally exceeding on the alert.

7824. There is no fear on their part of a European officer unduly checking them or disregarding them?—I do not think that any fear of that kind ever operates to deter them from making assertions of their claims; I think that they are exceedingly ready to do so.

7825. You have spoken of the climate of Khandeish being very unfavourable for the purpose of settlement; does not that arise from the quantity of jungle that there is there?—I think so.

7826. Would not that be obviated if the jungle were cleared?—I have no doubt of it. I cannot see any reason why it should not be so.

7827. Are you able to speak at all of the average size of the holdings of the ryots?—It varies much in different collectorates. I have no information before me which would enable me to state the average correctly, but in the Deccan I should say the size of holdings range from about 10 acres to 200 or 300; in the rice countries the holdings are much smaller. I think the average there is below 10 acres.

7828. I suppose where the holdings are large they underlet them?—No, these large holdings are generally held by successful farmers.

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7829. Employing hired labour?—Yes; but holdings are very extensively underlet in all the districts of the Bombay Presidency, but generally by those who are not themselves farmers; such as Brahmins and other classes who are not immediately engaged in agricultural pursuits.

7830. If they can find persons to give a profit rent, that fact must prove in itself, must it not, that the holdings have a marketable value?—Yes.

7831. Under the new survey there has been a very considerable reduction of rates, has there not?—Yes.

7832. And there has also been a very considerable increase of cultivation?—Very great.

7833. Has the increase of cultivation more than compensated for the reduction of rates?—In the aggregate there has been an increase of revenue as well as of cultivation; Government have lost nothing while the people have gained enormously.

7834. It has been stated in evidence by some witnesses that the Government and the servants of the Government discourage the settlement of Europeans in India, and show them the cold shoulder, and otherwise depress, annoy them, and worry them; is that consistent with your experience?—No; it is quite at variance with my experience.

7835. Mr. *Villiers*.] Are there settlers in Bombay?—There are very few; but I know that as to those all the Government officers and the Government have been most anxious to promote their interests by affording them every possible facility for the conduct of their operations. Mr. Landon would be able to give the Committee much better information on this matter than I can, but I know that in Khandeish, when Messrs. Ritchie, Stuart & Company, a commercial firm in Bombay, attempted to increase the manufacture of cotton there largely, the collector Mr. Mansfield, afforded them every possible aid; in fact, he was deeply interested in the success of their experiments, and went as far as a man possibly could in giving them every encouragement in his power. Such is the case I believe at this moment in Dharwar, where I think Mr. Brice, a European merchant, is settled for the purchase of cotton.

7836–7. Mr. *Villiers*.] You are now speaking from your own experience as an officer of the Company?—I am speaking from my experience as having been resident in India for 25 years; I do not think I have spoken with any particular prejudice.

7838. Mr. *Mangles*.] You are speaking from facts which are within your own knowledge and observation?—As far as I know them.

7839. And with the knowledge and observation that you have, do you think the general tendency of the Government and its officers is to encourage European settlement, enterprise, and industry as much as possible?—At the present time, I think so, decidedly; I believe they are really anxious to encourage settlement.

7840. What proportion of land is held free of the Government assessment in Dharwar and Belgaum?—A very large proportion. I will, in my reply to that question, quote, if the Committee will allow me to do so, a paragraph from a letter of Mr. Hart, who was our enam commissioner. He says, "On the appointment of Mr. Goldsmid as superintendent of the revised revenue survey and assessment in this province, he was naturally startled by the enormous proportion of land alienated in the shape of enams, &c., in the two collectorates of Dharwar and Belgaum. Besides the whole mahals entirely assigned as jagheer and surinjam, he found about 700 entire villages alienated out of the khalsat mahals of both collectorates, and in the balance of 2,452 villages left for Government, and khalsat by denomination, he estimated the number of minor alienations at about 60,000 estates; the share left for Government, even in these its khalsat villages, not averaging one-half thereof." According to that statement, more than one-half of the whole land was alienated.

7841. That is virtually not simply what we call property in land, but exemption from taxation, is it not?—I think it may be more correctly viewed as exemption from taxation than as property in land; it does not necessarily confer any property in land.

7842. Are not the enamdars generally cultivators of their own soil?—No, not generally; in the case of holders of any considerable extent they never are; that is to say, the owner of an alienated village never cultivates his village, because the rights in the land remain after its transfer to the enamdar the same as before.

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7843. He could no more get rid of the under tenures than the Government could?—Not justly.

7844. And is not that state of things one great cause of the tendency of the revenue of Bombay to pay its expenses?—I think there can be no question about that.

7845. Have you ever formed an estimate what is the relative value of the alienated lands throughout the Presidency of Bombay?—If my recollection serves me right, it amounts to about a third of the entire land revenue.

7846. The entire land revenue of the whole Presidency?—Yes.

7847. Mr. *Danby Seymour.*] Do you mean that one-third of the whole Presidency is rent free?—That is my impression at present; I am only speaking from recollection.

7848. Mr. *Mangles.*] In the districts of Dharwar and Belgaum it is a much larger proportion, is it not?—It is stated there to be more than half.

7849. Mr. *Danby Seymour.*] Is it one-third of the whole area of Bombay or one-third of the cultivated land that is wholly rent free?—A third of the revenue; the whole land is brought to account as assessable to the public revenue, and a portion of it is written off as transferred to some one else.

7850. Mr. *Mangles.*] Are you aware what proportion of the land held under these rent-free grants is assigned and really appropriated to religious endowments, Mahomedan and Hindoo?—I am not able to say, but I should think only a small proportion.

7851. Even of that which is nominally appropriated to religious purposes, is not a large part really appropriated by individuals to their own use?—I cannot give any decided opinion upon that point. I know that in the case of many small enams they are sometimes cultivated by individuals who do not perform any religious office, but I do not know upon the whole how that may be.

7852. Mr. *Vansittart.*] As you state you have been employed in assisting Mr. Goldsmid, of the civil service, in revising the assessment of the Poonah Collectorate, you have doubtless had opportunities of judging generally of the Bombay civilians, as regards their administrative abilities, and their knowledge of the languages of the country; will you be good enough to express your opinion upon the subject?—I think there is in the civil service of Bombay, as I have known it, a very great degree of zeal and a considerable degree of knowledge; but, of course, in a service selected as the civil service is, I do not think you can expect more than an average degree of ability in the members of the service; some of them will be efficient, and others will be the reverse. I have known instances of both, but upon the whole I consider that they are a zealous and efficient body.

7853. What would you say as to their knowledge of languages?—Generally it is very considerable; of late it has been, I think, very much greater than it used to be some years ago. In Bombay we have, I may say, three languages, Mahratta, the Guzzeratee, and the Canarese.

7854. Mr. *Mangles.*] And the Hindoostanee?—That is not a language of the Bombay Presidency; it is not spoken by the people, though it is perfectly well understood by a number of people in it.

7855. *Chairman.*] There is no language common to the different component parts of the Presidency of Bombay?—No; Hindoostanee is the language most generally understood by them; the civilians, after they have been for some time appointed to a district, generally acquire the language of the district to which they are appointed. The Mahratta language is generally known by the civilians of Bombay. Canarese is known to a less extent; many of the civilians employed in the Canarese districts were not well acquainted with the Canarese language.

7856. Have they not to pass an examination in different languages?—In two languages, which are often Hindoostanee and Mahratta.

7857. Mr. *Vansittart.*] It has been stated to the Committee that it would be desirable to separate the judicial service from the revenue service; do you concur in that opinion?—I am upon the whole rather favourable to the separation.

7858. Could not this system be carried out with the present body of civilians by making it incumbent on those civilians, selecting the judicial branch of the service, undergoing a judicial education in addition to passing the examinations prescribed at present?—In the Bombay Presidency there is a considerable separation of the two branches of the service; according to the rule, promotion in the judicial branch is confined to the officers employed in that branch. I think that whatever examinations were necessary as to legal qualifications, they would be

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better made in India, after the officers have had experience; I should apprehend that such a legal education as they would be likely to acquire in this country would hardly be sufficient to make a man an efficient judge.

7859. Then you do not think that the system could be satisfactorily carried out?—I think it would be for the benefit of the administration to separate, as much as possible, the revenue from the judicial department.

7860. I think you are in favour of the employment of natives in offices of high trust and emolument?—I think that offices of high trust and emolument ought to be open to natives, but with regard to their appointment, I would determine that by considerations affecting the qualifications of the individual, and I would say that a native should not be appointed to a judicial office if he was not, on examination, found to be qualified.

7861. Do you not think that the natives have greater confidence in a decision passed by a European than by one of their native brethren?—I think they have.

7862. The sudder ameens and moonsiffs of the Bombay Presidency are very well paid, are they not?—Yes, they are.

7863. Have not the sudder ameens and moonsiffs in the Bengal Presidency behaved generally very ill during this rebellion? for instance, have not many not only instigated the mutinous sepoys to murder Europeans, both officials and otherwise, but have they not thrown up all allegiance, and ruled and governed large provinces, temporarily wrested from our sway?—I have no further information upon that point than we all have from the newspapers.

7864. Are you not of opinion that with reference to the handsome salaries of the sudder ameens and moonsiffs, young men of good family and good education would be induced to go out from this country to fill those situations?—Possibly they might, but I am not of opinion that it would be desirable to exclude natives from such offices; I think it offers the best chance of improving the native, to hold out to him every possible hope of advancement.

7865. Could you not get, for those salaries, young men of good education to go out from this country?—Yes, but you would not get men of legal education, or men qualified, upon the whole, to make better judges than those you have at present.

7866. In regard to that interesting answer you have given to the Chairman on the subject of the field of employment of Europeans, I gather you are of opinion that European colonization is not practicable in the Bombay Presidency, although there are vast facilities for European employment in productive industry?—That is my opinion.

7867. Do you think the results of their productive industry could compete, in a profitable point of view, with Australia, Canada, and other of our colonies?—I think we have examples of successful settlement in India by Europeans, and I see no reason why it should not be very much extended; I think that India cannot be compared with the colonies referred to in your question, in respect of general attractiveness.

7868. Do you mean in a profitable point of view?—I cannot say whether the prospects of success are greater in Australia or not, but as to the extension of European settlement, I do not anticipate so much from the emigration of Europeans from this country with a view of carrying on some particular trade in India, as from Europeans already in India having relatives and friends elsewhere who may be induced to go out to India.

7869. You say that owing to the necessity for our maintaining a large European force in future in India, we may expect a large increase to the Eurasians, am I to understand from this that our soldiers will marry native women, or may live with them?—I imagine they would probably do both; they very frequently marry them now.

7870. In what situations and offices do you think we could employ the offspring, springing from an intercourse of such a nature?—I think, as I have said in a previous answer, that all employments which are considered suitable for Europeans would be suitable for them.

7871. In reading, the other day, an account of Sir Colin Campbell's advance on Bareilly, the correspondent mentions there was a battalion of these Eurasians attached to that army, and he doubted whether they would bear the exposure and the heat so well as even the Europeans; are you of that opinion?—As far as my own experience goes, I am not of that opinion.

7872. Mr. *Mangles.*] Had you any opportunity in the course of your operations as surveyor, of forming your opinion as to the general validity of enams or other

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rent-free grants, and whether they were *bonâ fide*?—My own operations did not involve any investigation into the title of enams; but the enam commission of the South Mahratta country was originally combined with the survey; afterwards I had the carrying into effect of all the decisions of the enam commissioners; in this way I had an opportunities of obtaining a knowledge of the subject. I had an acquaintance with the officers engaged in the inquiry, and I learned by that means and from public report the state of the enams; the general impression was that a great many were held on fraudulent, or imperfect, or unauthorised titles.

Jovis, 15° *die Julii*, 1858.

MEMBERS PRESENT.

Mr. Willoughby.
Mr. Villiers.
Mr. Danby Seymour.
Sir J. B. Smith.
Mr. Campbell.
Mr. Gregson.
Mr. Kinnaird.
Mr. Lowe.
Mr. Mangles.
Mr. Vansittart.
Sir Erskine Perry.

WILLIAM EWART, Esq., IN THE CHAIR.

Major *George Wingate*, called in; and further Examined.

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7873. Mr. *Willoughby*.] WHAT means did you adopt to ascertain the capabilities of the soil upon which the assessment was fixed?—We had a department organised specially for the purpose of valuing the soil of each field in every village; that is to say, of fixing its relative value upon certain rules, which experience proved to us to be well calculated to secure the end in view; then there were a number of checks by which the operations of the valuers were tested, and the accuracy of the result was proved by the readiness with which fields of all kinds of soil were taken into cultivation.

7874. Into how many classes did you divide the soil?—There were three orders of soils, the varieties of which were distributed among nine classes altogether; every soil was referred to one of these nine classes.

7875. Did you also take into consideration, in making your assessments, climate, position with respect to markets, agricultural skill, and the general condition of the cultivators?—Yes; all those matters came into our consideration.

7876. And the chief term was 30 years, but the title and occupancy were permanent?—Yes, the assessment was for 30 years, and the occupancy permanent.

7877. During that period the assessment could not be increased?—It could not be increased, but there was nothing to prevent its being lowered, if any circumstances arose to show that the assessment had been erroneously fixed.

7878. And the tenant was to be at liberty to throw up at pleasure?—Yes, on giving a written notice.

7879. Therefore, it was binding on the Government and not on the ryot?—Exactly.

7880. Supposing a man had under your assessment 10 fields assessed, and two of those were uncultivated?—Then, of course, he would pay upon them, not having relinquished them.

7881. Under this sense a ryot reaps all the advantages of improvement and outlay of capital?—Undoubtedly; and he is secured against loss through his having the privilege of giving up any portion of his occupation whenever he pleases, because he is thereby enabled to retain the particular land upon which he may have expended capital in improvements.

7882. *Chairman*.] Would this apply to European occupants as well as to natives?—It would apply to all occupants, European as well as native.

7883. Mr. *Willoughby*.] You have been asked whether the power to increase the assessment at the end of 30 years is, or is not, an obstacle to European settlers,

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settlers, and your answer was "No;" will you explain more particularly your reasons for so thinking?—I think I did explain them in my former evidence; I think that the power in question would not at all interfere with the acquisition of land, because the occupant would know that at the end of the 30 years' settlement the tax would not be raised upon him on special grounds, and that if it were to be raised at all, it would be raised upon general considerations affecting the whole district; that is to say, if the circumstances of the country at the time should make it expedient to increase the taxation; there would be no taxation in consequence of any special improvement made by an occupant.

7884. In fact, you think that the occupant would have faith that the ruling authority would revise the estimate on just principles?—Yes; and he has the same security that the owner of land has in every other country in the world.

7885. *Chairman.*] Might not a rise in the rent, proceeding not from the caprice but from the necessities of Government, affect the value of property to a settler, as well as a mere change from capricious or accidental circumstances?—Not, I think, more so than in all other countries; the necessities of Government in all countries may demand such an increase of taxation as to destroy to a considerable extent the value of private property, but I do not see anything in the peculiar circumstances of India which should make it more liable to this contingency than any other country.

7886. In other cases the whole field of taxation is open to the Government?——Yes, and also in India; I think there is nothing that restricts taxation in India to the land; the Government is of course free to raise taxes in India in any way that may be considered the most conducive to the interests of the country.

7887. Mr. *Willoughby.*] You have been asked whether the assessment is an obstacle to Europeans acquiring land; do you think that the direct cultivation of land in India by Europeans is likely to be profitable?—I have already answered that question in the negative, in my previous evidence.

7888. One of your reasons is, that you are not able to compete with the native cultivators, is it not?—Yes.

7889. *Chairman.*] As cultivators?—Yes; as cultivators.

7890. But capitalists now, both native and European, do purchase the produce of native cultivators, do they not?—They do, to a great extent, and they might do so, and I have no doubt will do so, to a still greater extent.

7891. Mr. *Willoughby.*] Are these the rules under which the revenue survey settlements of Bombay are now administered (*handing the same to the Witness*)?—Yes.

7892. Will you read them, if you please?—"Revenue Management. Rules 1. With a view to the improvement of the country and people, the assessment now introduced by the superintendent revenue survey   has been fixed by Government for a period of 30 years, viz., from fuslee   to   during which period the full benefit of every improvement, such as the conversion of dry into irrigated land by the digging or repairing of wells and tanks, the planting of fruit trees, &c., will be secured to the incumbent of the land, and no extra assessment levied on that account. 2. All cesses upon land have been absorbed in the new assessment; consequently when there are fruit trees in a field, their produce is to be taken by the cultivator, and nothing beyond the assessment placed on the field levied on that account from him; but in the case of valuable fruit and other trees standing in fields assessed at dry-crop rates, and not in cultivation at the introduction of the survey, and the produce of which it has hitherto been customary to sell on account of Government, the right of property in these trees, and of occupancy in the field should be offered at a fair upset price, and sold once for all by public auction to the highest bidder, and nothing in excess of the survey assessment thereafter exacted. But if no one offer to undertake the cultivation of the field on these terms, the produce of the trees may be sold annually, according to custom. 3. No field is to be let for less than the full survey assessment on account of its having been long waste, overrun with jungle, or any other reason whatever. 4. In the survey registers, in the case of fields containing garden and rice land, the said land is entered at so many acres, bearing a certain assessment, or the latter is laid upon the well in the case of garden land, without the irrigated acres being specified. This assessment is invariably to be levied, and nothing more, whether a greater or less number of acres, or none at all, be cultivated with garden or rice crops; and should there now or hereafter be garden or rice land in any field

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field not entered as having such in the survey registers, no extra assessment is to be levied on that account, the dry-crop assessment therein entered is alone to be levied. In the registers, also, a deduction is made on account of barren land in certain fields, and the assessment placed on the arable land alone; but in event of the cultivator bringing any portion of the land deducted as barren into cultivation, no extra assessment is to be levied on that account; the assessment on the field entered in the register is alone to be levied. 5. Every cultivator in whose name any field, or share of a field, on whatever tenure held, is entered in the village cultivation returns, is to be considered the holder of such field or share; and so long as he shall continue to pay the survey assessment due on it, he cannot be ejected or deprived of his right by any revenue authority; but in event of his failing to discharge the full assessment, Government reserves the power of ejecting him from any field or share of which the assessment shall at least be equal to the balance outstanding, the defaulter retaining, however, the privilege of determining the particular field or fields to be so relinquished; and in cases when the tenure precludes summary ejectment, the collector will observe the forms necessary to give his orders the force of a legal decree. 6. In event of a holder of Government land dying, his fields or shares are to be entered in the name of his eldest son or next heir, should he or his representatives agree to take them. 7. When two ryots hold a field, and one of them relinquishes his share, or dies without heirs, the share thus lapsing is to be offered in the first instance to the other sharer, before it is offered to any other party; and, in event of the said sharer declining it, and no other party applying to take it up, the former must relinquish his share too, and allow the whole field to become waste. 8. When there are more sharers than two in a field, and any of them relinquishes a share, or dies without heirs, it should be offered as above to the sharers in the first instance, beginning, in event of their failing to settle the matter amongst themselves, with the largest sharer, and so on to the least. If none of these, nor any other party be found to take up the relinquished share, the whole field must be thrown up. 9. Whoever has a field, or portion of one, entered in his name in the Government accounts, may have the said field or portion transferred to the name of any other person agreeing to cultivate the same, on his making a written application to that effect in the usual "razeenama," or petition to resign. 10. Proprietors of enam, zoodee, and meeras lands, having possession of the same, have the right of cutting down or otherwise disposing of all trees growing therein, and also holders of Government fields, of which they have been in uninterrupted occupancy from a period anterior to the age of the trees, or for a period of 20 years, or who have purchased the trees under the provisions of Rule 2. 11. Holders of Government fields besides those specified in the preceding rule, or occupants of meeras, zoodee, or enam lands, holding the same from Government, must obtain permission to cut down trees, and will, in event of permission being given, be required to plant two trees for every one cut, unless exempted from this condition by order of the Collector. The permission to cut trees under this rule, and also trees in Government waste fields, for any purpose connected with agricultural operations, to be granted by the patel and koolcurnee, on application, a record thereof being kept for the inspection of Government officers. For other actual and immediate wants of the villagers, such as repair of houses, &c., permission to be obtained from the mamlutdar or mahalkuree, but for cutting any large number, or for any purpose of sale or profit, the permission of the Collector, or one of his assistants, to be necessary when any conditions which may appear advisable can be imposed. 12. In taking up waste for cultivation, a ryot must agree for a whole survey-field at the full assessment, and no portion of a field is, on any account, to be given for this purpose, except in the case mentioned in the next rule; and when two or more cultivators agree together to cultivate a waste field, it must be entered in the name of one of their number, who will be considered the holder, unless the assessment of the field amount to or exceed 20 rupees, in which case it may be entered in the names of two or more holders, on the condition that the assessment of the share of each shall in no case fall short of 10 rupees. 13. There are some survey fields, consisting in great part of land covered with dense jungle, or otherwise unsuited in their present state for cultivation, upon which no assessment is placed on the survey registers. In the event of portions of such fields being brought under cultivation, rates of assessment should be fixed by the mamlutdar upon the acres under tillage,

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equivalent to those of similar soils in the same village. This rule applies to all fields in the survey registers on which rates of assessment have not been fixed. 14. Unless special exceptions be made by the Collector, of valuable grass land, certain to realise rents in excess of the survey assessment, the grazing of all waste of Government and meeras land is annually to be sold by auction, field by field, at the commencement of the monsoon, a preference being given at the sale to the inhabitants of the village to which the lands may belong. The bidding, however, for any waste field should not be allowed to go beyond its assessment in the survey register, and when it reaches this point, the field should be entered in the name of the last bidder, as other cultivated land held at the full assessment, and the person so taking it is admitted to all the privileges of a holder of land under tillage. 15. The grass of fields especially excepted by the Collector from the operation of the preceding rule, may be sold by auction to any one, for sums in excess of the survey assessment. 16. The grazing of the unarable and other fields not subjected to assessment in the survey register, should be sold by auction by the Collector, as in the preceding rule, a reasonable proportion being set aside for the free pasturage of such villages as have hitherto enjoyed this right. 17. In some villages houses are attached to particular fields, and it has been customary to oblige a ryot, throwing up one of these fields, to relinquish his house at the same time. This custom, however, is now abolished, and every cultivator is at liberty to throw up any field without his title to his house being at all affected thereby. This rule does not apply to the case of alienated lands. 18. In the survey register, an assessment is placed on zoodee and enam, as well as Government fields, but the zoodeedars and enamdars are not bound thereby, and are at liberty to let out their lands on any terms they please. 19. In event of enam land being confiscated, or temporarily attached, it is to be let out, while under Government management, at the survey assessment, or sold by auction, if waste, exactly as Government land. This rule does not apply to the year in which the attachment is effected, for which the existing agreements made with the enamdar should be allowed to stand. 20. Cultivators wishing to relinquish fields, must give in written applications to that effect before the 1st of May; and with the view of ensuring this being done, the village officers are to assemble all the holders of Government land on the 30th of April in each year; and having explained to them that it is the last day on which resignations will be received, the koolkurnee shall then and there write out, in a prescribed form, which must specify the number, acres, and assessment of every field to be relinquished, the "razeenama" (or petitions to resign), for any parties requiring them. These petitions should be signed or authenticated, in the presence of one or more witnesses, by the parties making them, and countersigned by the patel and koolkurnee, who should forward them without delay to the mamlutdar or mahalkurree, by whom they are to be attested, and returned to the village officers as vouchers for any alteration made in the village accounts of the following year. When waste fields are wanted for cultivation, written applications must, in like manner, be taken from the applicants, countersigned by the village officers, and forwarded by them to the mamlutdar or mahalkurree, by whom they are to be attested and returned; and all these resignations of cultivated, and applications for waste fields, are to be produced at each jumabundee settlement for examination. But village officers, under pain of punishment, are not to make any alterations in the cultivation registers, except upon the authority of the vouchers mentioned above, or in obedience to written instructions from the mamlutdar or mahalkurree. 21. The revenue should be collected by fixed instalments, without reference to the proportion of early or late crops grown in any one year, and consequently no field inspection, for the purpose of obtaining such information, should be made. In districts where early crops prevail, we recommend the collections to be made in four equal instalments, falling due on the 15th December, 1st February, 15th March, and 1st May; and where early and late crops are nearly equal, or the latter predominate, we also recommend four equal instalments, but respectively falling due a month later, viz., on 15th January, 1st March, 15th April, and 1st June. 22. The field boundary-marks erected at the survey should be preserved with the greatest care, and when injured, timely repairs must be made by the cultivators in the case of cultivated lands, and by hired labourers in the case of waste, the expense of the latter being defrayed from a sum of 100 rupees, to be deducted for the purpose from the

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proceeds of the grazing farms of each talooka, as sanctioned by Government. This amount should therefore be placed in deposit each year, and the order of the Collector obtained for its expenditure, as above explained, wherever necessary. The intervening strips connecting the boundary-marks, of a breadth corresponding with the latter, are constituted the boundary of the field, and forbidden to be ploughed over or otherwise injured; and in the case of dry-crop lands, before preparing any field for sowing, these strips are to be distinctly marked off each year, by the holder running his plough along the boundary. In the event of this order being neglected, and this space ploughed up or sown, the cultivator is to be made to connect the two contiguous marks, between which the boundary had been disregarded, by a continuous ridge of earth, a foot and a half in height, and should he fail to do so within a certain number of days, the village officers are to report the circumstance to the mamlutdar, who is to apply to the Collector for a notice, to be served on the holder of the field, according to the provisions of Act III. of 1846, and if this be disregarded, the boundary is to be put up by hired labourers, and the amount recovered from him as therein provided."

7893. *Chairman.*] You have said that the European settler acted beneficially as a purchaser from the native cultivator?—Yes.

7894. Are there not many other ways in which a European settler can benefit the cultivator, as, for instance, by introducing scientific and other improvements in the management of landed property, which can only proceed from a civilised state of society?—The presence of Europeans in India might very possibly conduce to improvements of that and other kinds; my idea is that the presence of Europeans in India would be very beneficial in various ways.

7895. Mr. *Willoughby.*] You have alluded to a vast quantity of waste land in Khandeish; in fact, in your report on Khandeish it appears that out of 12,078 square miles, 8,379 are waste; did they become waste before or after Khandeish became a British province?—Before; during the unsettled period which lasted for many years before our occupation of the country. Khandeish was reduced almost to the state of a desert, and it was in that state when we obtained possession of it; since we have obtained possession of it, population has considerably increased, and cultivation has greatly extended. The present Collector, Mr. Mansfield, has lately informed me in a private letter, that within the last seven years the cultivation of Khandeish has increased half a million of beegas.

7896. *Chairman.*] How many acres is that?—Perhaps about 400,000 acres.

7897. Mr. *Willoughby.*] In point of fact, the province was reduced to the condition you state by the inroads of the Pindarees, and the intestine wars of the Mahrattas?—Yes; it was overrun with tigers, and it was almost impossible to travel across it without danger to life from wild animals.

7898. Will you read, if you please, from your report upon the subject of the waste lands of Khandeish, dated the 29th of March 1852, the extract which I now put into your hands?—" In this talook, north of the Mahalkurry's station of Ravere, is a fertile valley within the Sautpoora Hills, which once contained a Cusba town, called Pal, and numerous villages besides. These villages still exist in name, and the whole circle is called the Pal Tuppa, from the chief town of Pal. But the valley does not contain, I was told, a single permanent resident, and not an acre of the soil is cultivated. It is overgrown with jungle, and infested by wild beasts. It is seldom visited, except by Bheels and Brinjarries, who go there to cut wood and graze their cattle at particular seasons. In the neighbourhood of the sites of the old villages mango and tamarind trees still flourish, and, along with numerous wells, attest that at no very distant date, and probably within the last century, the valley was crowded with industrious husbandmen. The soil is described as most excellent, and some years ago an attempt was made, with the aid of considerable grants of tuccavee from Government, to re-people the valley. A number of settlers went there, who cut down the jungle, and ploughed and sowed a considerable extent of land; but the climate proved deadly in the extreme. The cultivators died, or lost their health irrecoverably, from frequent attacks of jungle fever. The wild animals, especially the hog and neelgaee, which abound in the valley, ate down and destroyed the crops. After the lapse of a year or two, a miserable, emaciated remnant of the original settlers left the valley in despair, and never returned. Such was the story of the Pal Tuppa as told to me, and I mention it thus in detail to illustrate the present state of the province. The Pal Tuppa is

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is an example of a once fertile and well peopled, and doubtless healthy tract of country, having become covered with jungle and most malarious, owing to the destruction of the population during the anarchical times that preceded our conquest. It is by no means, however, the sole instance. The whole Ambeh division of the Thalneir talook is nearly in the same condition. The only inhabitants are a few Bheels, who subsist chiefly by wood cutting, and pay a plough tax to Government for the few lands they cultivate; a division of the Chopra talook, called the Dowla Turph, is in the same condition. Large tracts of Sooltanpoor, and the Nuwapoor, Mahalkurries division, as well as other parts of the Pimpulneir talook, are in the same state. The climate of all these parts is reported to be most unhealthy. The native inhabitants suffer annually from fever and ague, and from enlarged spleen... To those who are not natives the climate is still more deleterious, and it would be almost certain death to a European to remain for any considerable time in the jungles between September and February. They become less unhealthy as the hot season advances, but are never quite safe for Europeans, or even for natives unaccustomed to the climate. These tracts are, of course, very thinly peopled. The inhabitants are chiefly Bheels, who pay a light plough tax, and cultivate as much land as they please. The annual beghotee measurement has never been carried into these dreary wastes. Again, even in the comparatively well peopled and healthy districts of the plain, large tracts of waste, extending for miles, sometimes without an intervening patch of cultivation, are to be met with. From the table following my 15th paragraph, it will be seen that there are a considerable number of uninhabited villages in all the talooks, and a large number of these are also uncultivated. But there is a still larger number of villages, with only a very small population. Out of the 2,758 inhabited villages of the collectorate, there are 587 with fewer than 50 inhabitants, and of these 181 have fewer than 20 inhabitants. In every such case the whole cultivation is confined to a few fields, and with this insignificant exception the entire area of the village is waste and covered with jungle. To sum up these descriptions we have, then, in Khandeish, 1st., large continuous tracts of jungle in the talooks north of the Taptee, towards the Sautpoora range, and also in the western talooks south of the Taptee, among the hills bordering the Dangs, which have a most unhealthy climate, and are either uninhabited or contain a sparse population, chiefly of Bheels, who have not yet learned habits of steady industry, and to whose limited cultivation the beghotee system of revenue management has not yet been extended. 2d. Large tracts are to be met with, even in the plain, with very little cultivation, and with a very scanty population, uninhabited villages being numerous. 3d. In all parts of the collectorate, excepting a limited portion of the eastern talooks adjoining the Taptee waste land, covered with thorn jungle, far exceeds in extent the cultivated area; and villages with very few inhabitants, or entirely deserted, are common." That is in my "Khandeish Report," at pages 5 to 6.

7899. Do you think it would be possible for Europeans to form a location in that part of Khandeish?—I have stated that I do not think Khandeish a favourable district for European location, in consequence of the paucity of inhabitants, and the unhealthiness of the jungle.

7900. Are not our troops forbidden to travel in that part of the country at certain seasons of the year by a general order of the Government?—Yes, they are forbidden to traverse the jungles of the western districts of Khandeish at particular seasons, on account of their very great unhealthiness for several months of the year; it would be almost certain death to Europeans to pass any time in those jungles.

7901. That order, I believe, originated in consequence of instances having occurred of great mortality among our detachments marching through that country?—I believe so.

7902. You are aware, are you not, of the attempt which was made by the firm of Ritchie, Finlay & Co., of Bombay, to form an agency in Khandeish for the purpose of purchasing cotton?—Yes; when I was in Khandeish they had an agency there, Ritchie, Stewart & Co., I think, was the name of the firm.

7903. Was not every support given by the Government, and by the local authorities to render that attempt successful?—Yes; of my own knowledge, obtained when I was in the district of Khandeish; I am aware that every support that it was in the power of the Collector to give them was afforded.

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7904. Assistance was given to them by Government, was it not, in regard to realising their demands upon the ryots, and also in making their remittances?—I believe so.

7905. Nevertheless that enterprise did not meet with the success it deserved?—I am not aware of the causes which induced them to give up their agency; but I understand that since I left India it has been given up; up to the time of my leaving India, it was still there; I rather think it was given up in consequence of the difficulty of managing the system of advances to such a large number of cultivators, and the trouble and difficulty of finding qualified and trustworthy European agents to manage economically.

7906. You have expressed an opinion in favour of establishing asylums for children on the hills; to what hills do you refer, on the Bombay side?—I think that localities might be found on the spurs projecting eastward from the line of ghauts, sufficiently removed from the western face of the ghauts to secure a climate exempt from the very heavy rains of that region.

7907. Is there any particular locality which you could point out to the Committee as one suitable to the purpose?—I think the experiment would have to be made before you could pass judgment on its suitableness.

7908. The Mahableshwar hills themselves, you probably think are unsuitable?—Yes.

7909. The fall of rain there in fact is too great?—Yes; but a few miles eastward the fall of rain is not more than 50 or 60 inches.

7910. *Chairman.*] Have the spurs of the mountain to the eastward of the Mahableshwar range ever been thoroughly explored?—Yes; they are perfectly well known.

7911. All places which would suit European settlement have been thoroughly explored?—Yes.

7912. Mr. *Willoughby.*] There is a great sanitarium established near Poonah, is there not?—Yes, at Poorundhur, on the way to Mahableshwar from Poona.

7913. What are the obstacles to the settlement of Europeans in India, for whose settlement you have stated there is a field?—I am not aware of anything to prevent Europeans from settling anywhere in the Bombay Presidency, if they are inclined to do so.

7914. There is no hindrance offered on the part of the Government, or by the Government authorities, so far as you are aware?—No; on the contrary I believe that the Government authorities would gladly encourage their settlement.

7915. Do you not believe that the fact of Canada, Australia and the United States offering superior inducements, is one great cause why so few Europeans settle in India?—I think so undoubtedly; I think that the climate of India is not likely to tempt a European to go there, unless he is connected with parties who are already in India.

7916. Turn, if you please, to the 213th page of that book (*handing a book to the Witness*); I find there a statement in a few lines, showing the increase in the cultivation of cotton of the New Orleans species, and also native cotton in the Dharwar collectorate?—Yes; I have a more complete statement here which I have obtained from India; it is brought up to 1856-57, and I shall be happy to hand it in.

[*The Witness delivered in the following Paper:*]

EXTENT

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EXTENT of COTTON CULTIVATION in the Collectorates of *Belgaum* and *Dharwar*, for a Series of Years between 1841 and 1857.

Tenure.	YEARS.	Belgaum Collectorate.			Dharwar Collectorate.		
		Native Cotton.	New Orleans Cotton.	TOTAL.	Native Cotton.	New Orleans Cotton.	TOTAL.
		Acres.	*Acres.*	*Acres.*	*Acres.*	*Acres.*	*Acres.*
Villages under Government Revenue Management.	1841-2	69,833	- -	69,833	—	—	—
	1842-3	69,757	- -	69,757	—	—	—
	1843-4	62,754	- -	62,754	—	—	—
	1844-5	65,829	- -	65,829	182,337	2,749	185,086
	1845-6	54,190	- -	54,190	164,591	11,176	175,767
	1846-7	110,103	2,017	112,120	167,502	22,331	189,833
	1847-8	115,888	2,617	184,505	179,229	20,177	199,406
	1848-9	107,798	4,150	111,948	201,579	3,238	204,817
	1849-50	116,892	3,052	119,944	225,685	15,573	241,258
	1850-1	181,728	2,332	184,060	223,315	31,669	254,984
	1851-2	158,372	2,212	160,584	221,676	42,648	264,324
	1852-3	168,427	1,950	170,377	251,114	28,011	279,125
	1853-4	192,284	1,386	193,670	252,006	41,403	293,409
	1854-5	167,317	1,911	169,228	210,261	63,299	273,560
	1855-6	124,888	1,728	126,616	191,196	50,803	241,999
	1856-7	183,091	4,461	187,552	196,931	82,351	279,282
Alienated Villages.	1851-2	82,278	707	82,985	—	—	—
	1852-3	90,504	7,801	98,305	21,252	989	22,241
	1853-4	99,759	7,343	107,102	19,117	2,517	21,634
	1854-5	- -	- -	- -	14,551	3,899	18,450
	1855-6	45,002	12,752	57,754	11,648	2,960	14,608
	1856-7	66,116	22,360	88,476	14,013	3,495	17,508
TOTAL	1856-7	249,207	26,821	276,028	210,944	85,846	296,790

	Native Cotton.	New Orleans.	Total Acres.
TOTAL CULTIVATION in 1856-7, for both Collectorates	460,151	112,667	572,818

7917. You have stated that our imports from India of Manchester goods, have not affected the native manufactures?—I did not say they had not affected them; I said that they had affected them; that they had brought down the price of them very much.

7918. Are you aware that in former times very large quantities of the native piece goods were exported from the ports of Guzerat to the Persian Gulf, and to Africa?—I believe that to have been the case, but I have not the statistics here.

7919. And that trade has now almost entirely ceased, I am afraid?—I believe that the export trade of native goods has been very much injured, if not entirely put down by the competition of European goods; but it must be recollected that there has been a very great increase of consumption in consequence of the increase of population in India.

7920. *Chairman.*] But you think that this diminished export has not distressed the population much?—I mentioned in my former evidence that it had lowered the wages of the manufacturing population, but that I did not think it had greatly diminished the production.

7921. Mr. *Campbell.*] Do you not think that it has improved the condition of the population?—It has improved their condition generally, undoubtedly.

7922. In point of fact, what you would say is, that it is more to their interest to produce the raw commodity than the manufactured article?—No, that is not my impression at all; I think that the future wealth of India will depend upon the development of the manufacturing power of India.

7923. And not upon its productive power?—Yes, I think it will depend upon both.

7924-5. Mr. *Willoughby.*] Are you of opinion that India could, under any system of management, be made to render England independent of America in regard

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regard to the supply of cotton?—I am not of that opinion; but I have not examined into the subject very closely.

7926. Have you any reasons to give for the view which you take of that matter?—In my previous evidence I referred to the productive capabilities of Khandeish, and estimated them at not more than one-eighth of the present production of America; and roughly judging the extent of the cotton fields in India, I should say that the total quantity of cotton capable of being raised in India, supposing the average produce to be such as the land is now capable of yielding, would be far short of the American crop. But I do not mean to say that the possible capabilities of India, in regard to the production of cotton, have been developed to the utmost. By means of irrigation, no doubt, an additional amount of produce might be obtained, though to what extent I am not able to form an estimate.

7927. The extension of irrigation to cotton will depend, I presume, on whether the profit to be derived from it would be greater than that of any other kind of produce?—Undoubtedly; the ryot determines the particular kind of crop he will cultivate by considerations of profit alone.

7928. Another reason, probably, why the supply of cotton from India to England is less than it might be, is the fact of the China market being closer at hand, to which large quantities of Indian cotton are exported?—I think that the production of cotton in India is determined entirely by the price, without reference to any other considerations whatever; it is simply the price that happens to rule in the market at the time that determines the ryot whether to extend or to contract his cotton cultivation.

7929. Sir *Erskine Perry.*] But surely some soils are much better suited to the cultivation of cotton than others, are they not?—There are no soils that I am acquainted with that can be said to be restricted to the cultivation of cotton; they are equally suitable to other products.

7930. Is it not the case in India, as it is in this country, that some parts are fit for the cultivation of one particular crop, as barley, while others are fit for the cultivation of wheat and beans?—I should not say that there are any lands in this country that a farmer would consider limited to the cultivation of wheat and beans, or any other particular crop; he is determined by considerations of profit in raising particular crops.

7931. Mr. *Willoughby.*] Does it not resolve itself into this, that it depends upon whether there is a short or a plentiful supply of cotton in America?—If there is a short crop, the price rises; if the price of cotton in the markets of the world falls, then the cultivation of cotton in India is immediately contracted.

7932. And perhaps there is scarcely any article that fluctuates so much in price as cotton?—It has fluctuated very greatly; for instance, within the last few years there has been a great increase of cotton cultivation in India, which I attribute entirely to the rise in price.

7933. You are aware of the Enam Commission which was established in Bombay; do you know anything of its working?—The revenue survey which I superintended in the Southern Mahratta country was originally associated with the Enam Commission, and the Enam Commissioners commenced their operations in the collectorate of Dharwar when I was there, so that I was thrown a good deal in communication with the department, and had opportunities of learning what they were doing.

7934. Are you acquainted with the Act under which the Enam Commission was formed?—Yes; I have a copy of it here.

7935. Do you consider that under that Act the *onus probandi* rests upon the party in possession?—No; I consider that it rests upon the Government, or rather upon the Enam Commissioner, to disprove the title of any enamdar in possession. I think that is distinctly shown by the second provision of rules 3 and 4 in Schedule B.

7936. I understand you to say that you are decidedly of opinion that the *onus probandi* does not rest upon the party in possession?—I am decidedly of that opinion, for if the Enam Commissioner does not disprove the claimant's simple assertion that his holding has been enjoyed for a certain number of years, his claim is confirmed under the law.

7937. And that is the practice that is observed, I presume, by those who are entrusted with the carrying out of this law?—That is my belief; I never heard anything to the contrary.

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7938. This commission has of course frequently confirmed titles, as well as questioned them?—Very frequently.

7939. Do you think that the establishment of the Enam Commission was calculated to create a rebellion in the country?—No; I think that it undoubtedly was calculated, as every examination into titles must be, to make the holders of enam lands discontented; but I do not think that the population generally, not themselves holding enam land, cared anything about it.

7940. Sir *Erskine Perry.*] Any more than the peasants in Bedfordshire would care if the Duke of Bedford's title were questioned?—No; just the same.

7941. Mr. *Willoughby.*] With regard to the police in the Bombay Presidency, has not that been much improved of late years?—It has been altered, but I do not think that we have yet had sufficient experience of it, or at all events I am not sufficiently aware of the details of its working, to know to what extent it has been improved.

7942. The system of placing a European officer in charge of each district as a superintendent, with no other duty to perform, has been adopted, has it not?—Yes; that I believe has been done.

7943. With regard to the roads in Bombay, you have already stated, I believe, that great improvements have of late years taken place?—Yes, of late years.

7944. Mr. *Smith.*] Within what period?—There has been something doing in the way of road-making for the last 25 years, but there has not been much done until a comparatively recent period.

7945. *Chairman.*] Prior to the beginning of those 25 years what was the state of the roads?—We have only had the country for 40 years altogether, and there was little done.

7946. In what state were the roads generally in Bombay prior to that time?—When I first went to India, besides the road from Panwell to Poonah and Scroor, and one or two other roads of no great extent, there were no roads, so far as I can remember.

7947. The Bore Ghaut road was constructed in 1832, was it not?—In 1829, I think, by Sir John Malcolm.

7948. Sir *Erskine Perry.*] There are no metalled roads now in Bombay of any extent, are there?—Yes, there is one as far as Sholapore, 230 miles in length.

7949. Mr. *Smith.*] Is that a metalled road?—Yes.

7950. Is there, in fact, any metalled road in the Bombay Presidency, except the one from Poonah to Bombay?—Yes.

7951. Mr. *Willoughby.*] And bridged throughout?—Yes.

7952. Are there roads also constructed in the South Mahratta country?—Yes, there are roads from Belgaum down to the ports of Vingorla and Viziadroog; and there is a road from Dharwar to the port of Compta.

7953. And they are all excellent roads of their kind, are they not?—Some of them are good roads; the slopes are occasionally steeper than they ought to be, and there is a want of bridges in parts of them.

7954. Sir *Erskine Perry.*] Have you seen much of the system of education in Bombay?—I have not been directly connected with it in any way, but I have taken opportunities of looking at it.

7955. Your official business has been chiefly in the Mofussil?—Yes.

7956. Have you had in your office any of the young men who have been educated in the Elphinstone Institution, or in the Poonah school?—I have had many from the vernacular and English Mofussil schools, but I do not at this moment think that I have had any from the Elphinstone Institution.

7957. You have had none of the superior class of young men?—No, because the appointments that were in my gift were not sufficiently valuable.

7958. Have you any situations of 50 rupees to begin with, to offer to young men of that kind?—No, unless those of clerks in my own office, whose places were filled up; but on one or two occasions, when I was at Bombay, I visited the Elphinstone School, and some of the other educational institutions there.

7959. Does your experience of them, and your general knowledge of India, lead you to say that any considerable improvement in morality has been produced by the education they get under our system?—My own conviction is, that an improvement in morality will certainly result from English education; but I had not a sufficiently intimate acquaintance with the young men, who had received a higher English education at Bombay, to be able to state of my own knowledge that they have actually improved.

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7960. Did you happen to hear whether within the last 15 years, during which it has been in operation, there have been many instances, coming before the criminal court, of immorality or vice on the part of the young men who have been so educated?—I cannot recall to mind any instances of the kind; my impression is, that they are in conduct and qualifications altogether superior to the ordinary run of natives.

7961. Do you not think that the effect of English education is to raise up a public opinion among themselves, of a higher character than that of caste influence, so as to keep men in the path of morality?—I think so undoubtedly; I think that access to English literature can have no other than an improving influence on the native mind.

7962. Is it not the case that, generally speaking, an uneducated native cares about nothing but the opinion of his own caste, and that if they are all satisfied with him he laughs at the rest of the world?—Undoubtedly.

7963. Whereas among educated natives education enlarges their circle, and by their example they influence one another?—Yes; and it promotes also a much more liberal tone of feeling among them.

7964. The young men I am speaking of, therefore, would be available for Government employment, would they not, and might be much more depended on than the uneducated natives, who we are obliged often to put into offices of trust?—Yes; I should hope that that would be the result, and I think it will, though I have not had any actual experience.

7965. Still, from general reasoning, you would arrive at that conclusion?—Decidedly.

7966. With regard to tenures in Bombay, your system is not the same as the North-west system, which also gives a tenure of thirty years, is it?—No, I have already stated that.

7967. We understand from the evidence we have lately had from India that the North-west settlement has generally been on too high a footing; is that the case?—I am not aware of it.

7968. In Bombay your assessment is apparently very much lower than it was previously?—Yes, it is very much lower; I think there is nothing in the assessment now to interfere with the progress of the Bombay Presidency.

7969. Is your assessment low enough to give any saleable value to the land?—Most undoubtedly.

7970. And are those transactions taking place in the Bombay Presidency?—I think so. I know of some instances in which sales have taken place through the Mofussil courts, and the practice of sub-letting obtains largely in all the surveyed districts. A native is exceedingly unwilling to part with his land under any circumstances, and therefore, of course, he will never sell readily.

7971. How many instances of the operation of the new assessment do you know of in your own experience?—I may, I think, have heard of a dozen sales, or more.

7972. At how many years' purchase would such sales be made?—That I do not recollect, but at a few years' purchase only, owing, I have no doubt, to the practice being new to the people.

7973. Could you approach nearer to the number of years; you say a few years?—I had a letter mentioning the number of years, but I cannot at this moment recollect the number; I think that there was nothing beyond six years' purchase.

7974. Is not a saleable interest in land being offered in the market in the Bombay Presidency rather a new fact?—No, it is not entirely a new fact; throughout the Bombay territories there are isolated instances to be found of land having been sold at various periods.

7975. Are those enam lands?—No, assessed Meeras lands, which the people have always conceived they had the power of selling.

7976. But those instances are very isolated, are they not?—Quite so.

7977. I think I remember, in a report made by one of your commissioners, the fact being stated of land commencing for the first time to obtain a saleable value; is not that so?—Yes.

7978. That may have been from one of your own reports perhaps?—Very likely; there have not been many instances of sales, because people have not been in the habit of selling land; but there are frequent instances of the occupants of land drawing a money rent from land cultivated by others.

7979. Do you not think that if land were capable of being sold out and out,

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with a perpetual land assessment, there would be a great commerce in land in Western India?—I think there will be quite as great a commerce under the present system. I conceive that there is nothing in the present system to interfere with the free sale and transfer of land.

7980. Is not a tenure in fee-simple much more attractive to landholders than a tenure for 30 years?—This is a tenure for ever; it is not a tenure for 30 years.

7981. But the assessment is capable of being raised at the end of 30 years, is it not?—Yes, on public considerations; but I do not think that the existence of the assessment would interfere at all with the sale of land in India, any more than the existence of a rent-charge interferes with the sale of land in this country.

7982. If land in Bengal sells for 20 or 22 years' purchase, and if in Bombay it sells for 6 years' purchase only, does not that show that there is a great desire for land with a perpetual settlement?—I do not think so at all; the sale of land in Bengal has been in operation under our Government for nearly a century, while it has been in operation in Bombay for only two or three years.

7983. Your opinion clearly is, that this kind of tenure is as attractive to a landholder, or to a man seeking to purchase land, as a conveyance of land in fee-simple or a perpetual settlement?—I think that the liability to increase of assessment at the end of 30 years may probably detract to some slight extent from the saleable value of the tenure; if it were totally free of such a liability it is natural to suppose that it would perhaps be of greater saleable value; my argument is, that there is nothing in the tenure to prevent the land from being fairly saleable, or to prevent a rise in the value of land.

7984. Did you ever know of any of our great parsees, or others desirous to possess land, going into the interior and being able to lay out money in land there?—I think that the natives of Bombay have exceedingly little knowledge of the interior, from their not having been until lately in the habit of leaving the island of Bombay; owing to its being an island, and to the country in the immediate neighbourhood of it having belonged to a foreign power during such a long period of our rule, the natives of Bombay have had very little intercourse with the interior.

7985. But the parsees are continually up the Poonah, are they not?—Yes, of late years. I have mentioned that the way in which I think capitalists could most advantageously employ themselves in the interior would be, not in the purchase of land, but in developing the resources of India in other ways, and by trading and carrying on manufactures of all kinds; the parsees have now settled themselves in various localities, and employ themselves in that way, in consequence of its being more consonant with their previous habits.

7986. Is it not the fact that the natives of India generally are extremely attached to land, and put great value upon the possession of it?—I think so; I have said so in several parts of my evidence.

7987. Is not that inconsistent with what you now say, that they are so addicted to habits of commerce that they do not pay much attention to the acquisition of land?—I was speaking of the natives of the island of Bombay; I do not think that they are particularly attached to land, for they have had no opportunities of owning land.

7988. Do they not in Bombay give high prices for land, and is not the acquisition of land one of the great desires of the people there; land being capable of being bought in fee-simple, and English tenures having prevailed there, to the exclusion of Government rights, is it not the case that the natives compete largely for the acquisition of every piece of ground that is to be sold?—Yes, for building purposes.

7989. And have they not, in fact, become the owners in fee-simple of nearly the whole of the island?—I think that is very likely; but I apprehend that the land-tenure of the island of Bombay is not a fee-simple.

7990. Do you not think that those same men, when they go into the interior, would buy land, if they had the opportunity of doing so?—If they had any fancy for the possession of land they would employ their capital in that way.

7991. Have they not done so in the Mofussil?—They have there employed themselves in the way they fancied they would succeed best.

7992. Do you know of any application having been made to the Government with reference to the investment of large sums in the purchase of land within the last few years?—I know many instances in which, in the interior, people who had previously been engaged in trade, and in banking, have taken largely, under the

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the new settlements, to the cultivation of land, and who own it now in considerable quantities.

7993. Do you know of any applications having been made to the Government in 1853 for the purchase of land, and of offers to lay out a large sum in its purchase, if a title in perpetuity could be given to the purchasers?—No.

7994. Did not Colonel Rathbone offer to lay out 150,000 *l.* in land if such a title as I speak of could be granted?—There was an anonymous offer of the kind made in the public papers; but I never heard of an individual having made a formal offer of the kind; at the same time I should state, that had the offer been made, it was quite out of the power of the Government to accept it; there was nothing in the world to prevent Colonel Rathbone, or any other capitalist, from going to any part of the country and buying up land from the actual owners of it; but the Government has no means of compelling them to sell their land.

7995. Is there such a quantity of land coming into the market as would enable a capitalist with that amount of money to lay it out in the purchase of land?—He has only to offer a price which the landowner will accept, and he will get the land.

7996. But he will only be able to buy it, subject to the assessment?—Yes; which I have already stated would not, in my opinion, deter a capitalist from investing his money.

7997. Government could enter into an undertaking, could it not, not to increase their assessment at the end of the 30 years?—Government might do so if it chose to give up all prospect of additional revenue from land at a future time.

7998. Therefore Government could give a saleable title to land to a capitalist seeking to invest his capital in the purchase of land?—I think it does give a saleable title under the present system.

7999. But suppose capitalists think otherwise?—That is a supposition which I do not agree with; I can see nothing in the present tenure to prevent a capitalist from investing his money in land.

8000. But I am referring to a special case of a communication in the newspaper, saying that 150,000 *l.* in money was ready if such a title to land could be given by the Government?—That was used to clinch a newspaper argument; I never understood that such an application was made to the proper authorities; but if such an offer had been made, I do not think that the Government had it in its power to comply with it.

8001. You did not make any reply to such an application, did you?—I engaged in the discussion at the time in the public prints.

8002. Was not your reply that the Government had no power to make such a title to the land?—I do not recollect.

8003. Did you not also say that Government could clearly make such a title, if it chose to say, "We will not increase your assessment at the end of 30 years"?—Government has the power, no doubt, to make a permanent settlement, if it chooses; but the policy and expediency of this course must be determined with reference to its power of raising an adequate revenue from other sources.

8004. But Government had it in its power to make such a title, had it not?—It had, of course, the power of making a permanent settlement; there is no doubt of that; but I do not think that it would be expedient to do so.

8005. Do you think that it would not be more attractive to a capitalist to have such a title, or do you think that a 30 years' settlement is sufficient to attract him to invest his capital in land?—I think that a 30 years' settlement, as regards the assessment, and the tenure being for ever, are sufficient inducements to a capitalist to purchase land; if he requires or wishes to possess land, I can see nothing in the tenure to prevent his obtaining it; on the contrary, I think it could be shown that the tenure would facilitate the acquisition of land.

8006. You are not able to mention any instance of a Bombay capitalist having made any such investment in land, are you?—I am not aware of any Bombay capitalists who have visited the interior with a desire to obtain land.

8007. Whether with a desire to obtain it not, do you know the fact of any man having made such an investment?—No.

8008. Mr. *Smith.*] Do you know that the Chamber of Commerce petitioned Government to allow them to purchase land in perpetuity?—No, I do not.

8009. Sir *Erskine Perry.*] It is mentioned in Mr. Bright's Committee on Cotton, that one great obstacle in the way of capitalists settling in India is their permanent inability to procure land in perpetuity?—I am not aware of it, but I should

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should think that the only parties really competent to form an opinion upon that point would be the individuals who had endeavoured to settle in the interior; I think that the opinion of the merchants of Bombay, who had themselves no intention or idea of ever resorting to the interior for such a purpose, is not of much value.

8010. Are you not aware that the merchants of Bombay, or the Chamber of Commerce, sent agents into the interior to inquire into the subject?—I am not aware of it.

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8011. Supposing that to be the fact, that perhaps would vary the opinion which you have expressed in your last answer?—No, I do not think it would.

8012. Would it not show a desire on their part to invest their capital in the interior, if suitable facilities were afforded them?—I think that there are ample facilities now; in fact some of the Bombay merchants and other merchants have attempted to settle in the interior, but not to acquire land; I do not think they conceived that any Bombay merchant, who had a practical knowledge of the interior, and of the difficulties attending a successful cultivation of the soil when in competition with the natives, would attempt to invest capital in the purchase of land.

8013. I am speaking also of native merchants as well as Europeans; if land were easily to be got by capitalists, do you not think that native capitalists would be rushing into the market to invest?—I think that the fact of land being obtainable anywhere, and that these men have not gone into the interior and purchased to any extent, tend to show that they have had no wish to do so.

8014. Is it not the case that the ryots in the Bombay Presidency are always under advances, for which they are paying exorbitant rates of interest?—Not in all parts; in some parts they are. In the South Mahratta country I think they are very free from engagements of that kind. I think it would be found, if the matter were inquired into, that they are there more free and independent than the farmers in most of the countries in Europe.

8015. But the ryots generally are in an embarrassed state, are they not?—In particular districts they are; and that, in my opinion, is due not to anything connected with the land tenures, but to the operation of our laws connected with debtor and creditor.

8016. Do they not pay for their loans interest at the rate of from 50 to 60 and 70 per cent.?—No, I think not, generally.

8017. Do they not pay 6 per cent. per month?—I have already given in evidence a letter from Mr. Frere, in which he mentioned that the ryots are able to obtain advances at a much lower rate than that.

8018. Whatever the amount of interest may be where they have to borrow on such terms, does not that show such a state of embarrassment as would induce them to sell their right to occupancy, if a good price were offered for it?—My belief is, that land might be freely purchased anywhere if a sufficient price were offered; but I think that a high price would be required to induce a native to give up his paternal field.

8019. But a great desire to acquire land in India would bring forth a high price, would it not, just as it does in this country?—That would depend upon whether there was great difficulty in obtaining land or not; it would depend upon whether the whole of the land was occupied. In a great part of the Bombay districts the whole of the land is not occupied; and as long as there is a considerable extent of unoccupied land, which anybody may get for nothing, that, of course, will interfere with the obtaining of a very high price for land which is in occupation.

8020. Is not the cause of that land being unoccupied dependent upon this, that it is too far from a village or from water to make it suitable to a cultivator?—It often arises from a want of population.

8021. Therefore that land has no value in the market?—But there is no obstacle to a settler from another part of the country going and occupying that land.

8022. Except that there is no population?—Of course.

8023. Mr. *Campbell*.] How do you account for the absence of population?—It is owing, I think, to the many disorders that prevailed in that country previous to British rule, and to other causes. As regards the value of land, I may add that many persons in the interior hold land to a very considerable extent which they underlet. I have no doubt whatever that an examination of cases coming

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before the Mofussil courts in future years will show that land has been acquired by purchase to a very considerable extent and value; I am referring now to unimproved lands; I have known sales of improved lands, on which capital has been expended in digging wells and other expensive works, where the land has been sold for a great many years' purchase of the assessment.

8024. But you do not know more than a dozen instances of such sales of land, do you?—Not of unimproved land subsequent to the introduction of the new settlement; but the chief reason for land not coming into the market is, that the ryots do not desire to part with it.

8025. Mr. *Smith.*] Are you aware that a body of Parsee merchants made a proposal to the Government to purchase a large tract of pestiferous jungle, on condition that they should enjoy it for a term of 100 years without any alteration of the tax, and that the Government declined to sell the land for a fixed term?—No; I think I have heard that there was an offer to lease a portion of the territory between Surat and Khandesh, but I know nothing of the details of the proposal.

8026. Are you aware that the Government declined to make any change in their method of settlement?—I am not aware of the decision to which the Government came.

8027. Are you aware that the place to which I refer is still a pestiferous jungle?—I think that that is very probable.

8028. Is it not the fact, that if the Government had complied with the terms offered by the Parsee merchants, the probability is that they would have expended their capital upon the land, and that that pestiferous jungle would now have been in a flourishing condition?—That would depend upon circumstances; to do that they must have withdrawn the population from another part of the country which was paying revenue to Government; and if the proposition was to hold that land tax-free, I think that the Government had strong reasons for objecting to the proposal.

8029. The objection was to let it for a lengthened term; the Parsee merchants would not take it unless they could have a tenure for 99 years, and the Government declined to let them have it on any such terms?—I was not aware of it.

8030. What is the general character of the roads in Bombay?—They have, I think, been classed under three heads; first, roads completely bridged and metalled; secondly, roads made, but not bridged or metalled with a superior kind of metal, but made with such materials as are available in the immediate neighbourhood; and, thirdly, roads simply cleared by making the ordinary track available for cart traffic, by removing obstructions.

8031. Can you inform the Committee of the extent of each kind of road that you have mentioned?—No; I am not aware, but I think that Mr. Mackay mentions it in his book; I cannot state it from memory.

8032. Have all these roads which you speak of, which have been opened out in Bombay, been made for the purpose of facilitating the transport of merchandise, or increasing the means of intercommunication between one place and another?—Yes.

8033. They have not been made for military purposes only?—No, I think not; the great passages through the ghauts (of which we have three or four in Bombay) are of course available for military purposes; but they are chiefly useful for developing the agricultural and commercial resources of the country.

8034. You are referring, perhaps, to the road to Poonah?—Yes, and the road to Khandesh, and the roads to the South Mahratta country.

8035. As regards the road from Bombay to Poonah, is not that purely a military road?—Not at all, I should say.

8036. Is it not a fact, that Poonah and Bombay are the two termini of the head-quarters of the two divisions of the Bombay army?—Unquestionably.

8037. And is not Poonah the residence of the Commander-in-Chief of the Bombay army?—Yes, at times.

8038. Has not the road been made to facilitate military objects?—I think, if you refer to the minutes of Sir John Malcolm, under whose government it was constructed, you will find that one great object he had in view was the development of the resources of the country, which the opening of this passage through the ghauts would effect; and it has had that effect beyond all question, because the traffic between the Presidency of Bombay and the interior, by means of that road, has been enormously increased.

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8039. And therefore if these military roads had not been made, there could have been no commercial traffic?—I do not see why they should be considered merely as military roads; every road must be adapted to military purposes.

8040. Do you mean to say that if roads are desired for the purpose of opening out communications through the country, the roads which have been made are the best calculated for that purpose?—I think that our two chief ghauts are the best that could have been selected; the Bore Ghaut and the Tul Ghaut, and the one from the South Mahratta country is also good; but I think that many more passes might have been most advantageously opened if we had only had the money.

8041. Is not the road from Poonah to Amadnuggur made for military purposes also, and is not that the head-quarters of the Bombay artillery?—It is; but the road is also of great commercial importance.

8042. Can you mention any made road in the province of Bombay, at the terminus of which there is not some military station?—We have military stations all over the country, but I think you could not have selected three better ghauts to open up in the first instance than the three that have been made; one for the South Mahratta country, one for the central district, the Deccan, and one for Khandiesh; I do not think you could have selected three better localities, as is also, I think, proved by the fact of the railway being taken up two of these very ghauts; the railway is being taken up by the Bore Ghaut and the Tul Ghaut, showing, I think, that no better points could have been selected for opening up a means of communication.

8043. The roads which have been opened out appear so far to have been for military purposes primarily, do they not?—No, I do not think that; I have no doubt that military purposes were considered in opening those roads, as they must be of great advantage to the Government for military objects, but I have no doubt also that the development of the resources of the country had weight with the Government.

8044. How do you account, then, for the absence of roads in Guzerat, where there is a large trade?—Roads are by no means so much required in Guzerat as they are in the Deccan; our territory in Guzerat is all situated within a few miles of the coast, whereas our territories in the Deccan are divided from the coast by a barrier of mountains.

8045. Do you know the road between the foot of the Tul Ghaut and Bhewudy?—Yes, I do.

8046. What is the distance?—I should suppose about 200 miles.

8047. Is it as much as that?—I do not recollect; it may be less, but that can easily be ascertained by reference to the map.

8048. How long, by these military roads in Bombay would it take to travel 200 miles?—I do not exactly understand your question.

8049. You say there are excellent roads in Bombay?—No; I have not said that anywhere in my evidence; there are some good roads.

8050. Take the case of the road which goes from Bombay to Poonah over the ghauts, and which is a very difficult road; how long does it take a cart to travel that distance?—I think that a cart can go on that road about 20 miles a-day.

8051. Then it would take them about four days to perform the journey?—Yes; the distance is only 70 miles.

8052. How long does it take to ascend the ghauts?—I should think that that would take a day, owing to the difficulty of taking the load up the steep slope.

8053. Do you think that if the road were level from Poonah to Bombay the distance might be travelled in three days?—It is quite impossible that it could be level.

8054. I am supposing it to be level?—But it is impossible that it could be.

8055. Supposing it to be a tolerably level road, would a cart be able to travel the distance in three days?—I think that, if there were no ghaut, half a day, perhaps, might be saved.

8056. How many days do you think it would take them?—I suppose it would take three days and a half, instead of four.

8057. The distance being 70 miles?—Yes.

8058. We will suppose that the distance from Khangaun to Bheundi would be three times 70, or 210 miles?—No, I do not think it is so much as that; but I do not recollect the distance. It may be easily ascertained by a reference to the maps.

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8059. We will assume that it would take about 10 days to go the entire distance, supposing there were a road between Khaungaum and Bheundi?—If the distance is three times as great, it would take three times as long, I suppose.

8060. Can you tell me how long it does actually take?—I do not exactly know; I think I mentioned it in my report on Khandeish.

8061. Does it not, in fact, take six weeks?—No, not with carts; I think it takes nothing like six weeks; it may take that time to go and come back again with a return load, perhaps; but, without knowing the exact distance, it would be impossible for me to say.

8062. What is the whole extent of roads in Guzerat?—It is very limited indeed, but I cannot state what the extent is.

8063. Mr. *Willoughby.*] Have you ever been in Guzerat?—Yes.

8064. How far?—As far as Ahmedabad; I am not aware of any extensive made roads in Guzerat at all.

8065. Mr. *Smith.*] Is not the province of Guzerat as large as all England?—Not that part of it which is British territory; I do not think that that is so large as the county of York.

8066. I think you state in your report that the roads are in a frightful and thoroughly execrable state, and that the road from the Teel Ghaut, through the Konkan, the most important line of road in the Presidency, with the exception of the Bore Ghaut, is almost in an impassable state?—Yes; I reported that a particular portion of it, below the Ghaut towards Bheundi was in that condition up to a late time.

8067. What would you say was the general state of the roads in the province of Bombay, with the exception of the military roads or roads leading to military stations?—I am not aware of any distinction that can be drawn between military and civil roads in the Bombay Presidency.

8068. Does not every road that has been made lead to a military station?—Yes; but it happens also to be a most important road for commercial enterprise.

8069. Mr. *Mangles.*] Is the commerce of the country sacrificed to military considerations in the matter of roads?—I think not; all the great roads in the presidency are very useful for commerce; and I do not think that better lines of road could have been selected for the developement of commerce, they subserve military purposes also, as military stations happen to be on these lines of road; but better roads for commercial purposes, I think, could not have been selected than the roads by the Tul Ghaut, Bore Ghaut, and Ram Ghaut.

8070. Is it the fact, that during a great part of the year the whole country is impassable?—In the Deccan, owing to the number of hills and watercourses, there are considerable obstables to cart traffic, but at a trifling expense in clearing away the chief obstructions, the whole of the country might, I think be made available for cart traffic.

8071. In Guzerat?—That is open at all times to cart traffic, except at particular periods of the year during the rains.

8072. Mr. *Villiers.*] What do you mean when you say it is open to cart traffic?—That the country is so level and open, that along country roads in all directions, carts have gone for ages, and go still; I have driven myself over the whole of the Deccan.

8073. In what?—In a curricle; but at the same time, I think that an immense deal more ought to have been done.

8074. Mr. *Smith.*] I understand you to say, that in your opinion, the land assessment is not a tax but a rent?—Yes; a portion of the rent.

8075. And that the people would derive no benefit if the Government levied no rent at all, inasmuch as if the Government did not do it, it would be levied by some one else?—Undoubtedly; I do not say that the people would derive no benefit from it, because of course they would derive the benefit of the assessment being given up; the landowner would, of course, take what the Government gave up, and if the Government could do without any taxation, the people would be benefited by the amount given up.

8076. But they would have to pay rent to somebody, would they not?—Yes; if they did not cultivate their own land.

8077. So that, in fact, the people of India are not taxed?—No, not at all.

8078. An untaxed people ought to be a happy and prosperous people; if the people of India are not taxed, how do you account for their being so poor and wretched?—I have not stated that they have always been untaxed, but simply, that under the new revenue settlement they are untaxed, and under that settlement I think they are exceedingly comfortable and well off; their occasional poverty is, I think, attributable to the changes which we have introduced in the relations between debtor and creditor; as regards the agricultural classes, we have introduced an entirely new system through the operation of our courts of justice and our laws, which system is not so suitable to them as their old ways.

8079. Mr. *Villiers.*] You would hardly say that the people are not taxed merely because they do not pay a tax directly to the Government?—I hold that the land tax is no tax at all; that they are not taxed in any way whatever.

8080. Are the people well off or not; because the question which was put to you just now seemed to imply that they are in a state of great poverty and wretchedness, while your answer assumes them to be very comfortable?—I say that an improvement has taken place in their condition and circumstances.

8081. *Chairman.*] You do not mean to deny that they are still badly off, do you?—I do, most distinctly. I say they are exceedingly comfortable; in many cases they have abundance to live on.

8082. Mr. *Villiers.*] Are you speaking of the peasantry?—Yes.

8083. Mr. *Smith.*] What part of the country do you refer to when you speak of the people being in such a state of comfort?—The Southern Mahratta country especially.

8084. Is that the only portion of the Bombay Presidency to which you refer?—No, I think that throughout the whole of the districts that have been settled, the peasantry are in a condition of very tolerable comfort.

8085. Does the system of assessment according to the crop exist anywhere at present in the Bombay Presidency?—No, not to any extent; if at all, it must be to a very limited extent.

8086. When did it cease?—I think it has ceased a good many years; it has not been in operation in my time in any of the districts with which I am acquainted. In the course of my experience I never met with any instance of assessment according to crop; there was a water-rent that used to be levied in the case of irrigated lands in Khandeish with reference to the crop grown, but that was not really a land-tax, but a mode, and I think a good mode of levying a water-tax, because certain crops require a larger expenditure of water than other crops do.

8087. We had it in evidence in 1848 before the Cotton Committee, that the practice then was to assess a man according to his crops; I want to know how long it is since that practice was discontinued?—The fact is this; the assessment before the introduction of the new settlement was generally heavy; very often it was beyond what the ryot could pay. In order to determine how much he could pay, the value of his crop was estimated, and with reference to that estimate, the amount of remission from the fixed assessment was determined.

8088. How long has that system ceased?—It has been superseded by the new settlement.

8089. But still the settlement is not complete?—It is not complete throughout the Bombay territory.

8090. Mr. *Mangles.*] Did not the Supreme Government in Lord Auckland's time expressly forbid assessment according to crop?—Yes; but this was not according to crop.

8091. Mr. *Smith.*] Has the 30 years settlement extended to Guzerat?—The survey operations are going on, but the settlements have not yet been introduced into Guzerat.

8092. Nor into Khandeish?—No.

8093. Is the settlement completed in Khandeish?—No; but the survey is going on.

8094. Under your 30 years settlement, as I understand, the ryots' engagement is only an annual one?—Yes; that is to say he is at liberty to relinquish any portion of his land when he likes.

8095. He may continue a fixed tenant from year to year at a fixed rent?—He continues for ever a fixed occupant; so long as he chooses to hold the land no one can dispossess him.

8096. He continues a tenant from year to year at a fixed rent of 30 years?—Not a tenant; he continues liable to pay an assessment fixed for 30 years, but the expiry of that term does not affect his title of occupancy; perhaps the Committee will allow me to state that there is complete information regarding all these points already published in a Parliamentary Return of Revenue Survey (India), which was ordered by the House of Commons, to be published on the 20th of August 1853; Reports on the Bombay Settlements occupy pp. 294 to 452 of this Return.

8097. Do you not think that improved roads are indispensable to the success of the new land settlement?—I think they would be of great advantage to it; they would promote its success, and the development of the resources of the country, undoubtedly.

8098. Do you think they are indispensable?—The development of the country would be less without the roads of course, than with them; nobody can doubt that.

8099. Would the ryot, in point of fact, after a time receive any advantage from the new settlement unless there were outlets for the exportation of his produce? —There are to a certain extent outlets now; he would derive great advantages no doubt if additional outlets were made.

8100. But are not the outlets so expensive, and do they not add so much to the price of the produce as to make it impossible for that produce to compete with the produce of foreign countries?—No; in some parts of the interior it may be so, but not in the Bombay districts.

8101. Are you aware that the value of cotton at the place of growth is about 1¼ *d.* a pound, and that it costs 1¼ *d.* a pound to bring it to the market? —Not in the Bombay districts.

8102. Not in Guzerat?—No; nor in the Southern Mahratta country; the expense of carrying cotton to Bombay is by no means equal to the cost of its growth I should say.

8103. What is it in the South Mahratta country; do you know what it is from Dharwar?—I have not got Mr. Mackay's book, but I think that that question is investigated there; I have not any figured statements or other data to refer to.

8104. Is it the fact that in some cases the settlement has had to be reassessed? —Nowhere, that I am aware of.

8105. Is it not difficult in these surveys, where you are obliged to employ native agency, to assess the land justly?—No, I do not think it is, if you take care to make your assessment sufficiently moderate; I have a very high opinion of the qualifications of the natives in operations of that kind.

8106. Is there not great corruption among the subordinates?—Not under efficient superintendence; I think that an investigation of the surveyed districts of Bombay would show that the work has been done as it was intended to be done.

8107. Is it not the case sometimes that the richest lands are put down at a low price to those who will fee the surveyors?—Certainly not, in my opinion.

8108. Mr. *Willoughby.*] You employ various tests, do you not, to ascertain the accuracy of the estimated value?—Yes.

8109. Mr. *Smith.*] Do you think that any European would go there and build manufactories or houses for the cleaning of cotton on a tenure of 30 years, subject to the assessment being raised at the end of that time to an extent of which he is perfectly ignorant?—I have already said that I do; I think that the tenure would be no obstacle at all.

8110. Suppose a man were to lay out 10,000 *l.* upon the land, would his rent be increased in consequence of that outlay?—No, certainly not.

8111. Not at the end of the 30 years?—No.

8112. *Chairman.*] Might it not be increased?—Not without the Government committing a breach of faith.

8113. What guarantee has a man that he will not be charged an increased rent in consequence of his outlay?—The guarantee of the good faith of the Government. I do not understand what greater guarantee a man has in this country; he has simply the guarantee of the good faith of the Government under which he lives, that it will not assess him unjustly on individual considerations; that whatever taxes may be required for the purposes of Government will be fixed on general considerations affecting the country at large, and which will be just to the whole community.

8114. May not Government be obliged to raise these taxes as has been the case in this country?—But not as regards an individual.

8115. Mr. *Smith.*] Do you know that when a man digs a well the Government allow him the use of that well for a certain length of time, and that then they raise his assessment?—Yes.

8116. Mr. *Mangles.*] Is it the fact that they do raise his assessment?—In some parts of India they do.

8117. Mr. *Smith.*] Would they not, in the same way, raise a man's assessment, if, by laying out a large sum of money upon the land he occupied, he had greatly increased its value?—The case of the well is subject to a different consideration altogether, namely, the policy of imposing a water rate; it is the capability of the land to supply water, for the purpose of irrigation, that gives it its greater value.

8118. I want to know what security a capitalist, investing his money in land in India, and erecting buildings upon that land, by which its value is increased, has, that at the end of the 30 years his rent will not be raised by the Government?—I think he has the same security that a capitalist would have in any other country.

8119. What is that security?—The good faith of the Government; his conviction that Government will not assess him unjustly.

8120. *Chairman.*] The question is not the justice of the assessment, but the raising of the rent?—But will you permit me to ask, does the Government of this country enter into a contract with any individual in it that he will not be taxed hereafter for any improvement he may make.

8121. Mr. *Smith.*] Then the purchaser of land, under those circumstances, has no security, except an undefined notion that the Government will not raise his assessment?—That it will not raise it beyond the assessment of all other parties in a similar position; that he will not be taxed on individual considerations affecting himself, but on general considerations affecting all alike.

8122. Do you not think it is possible to devise a more simple plan of letting or selling land in India than the one which has been adopted?—I think it would be difficult to adopt anything more simple.

8123. *Chairman.*] Do you think it would be possible to adopt any system that would be more attractive to a European capitalist?—The Government have not the power of selling land anywhere.

8124. Mr. *Campbell.*] Does any European settlement at all exist in the Bombay Presidency?—To a limited extent; there are a few settlers.

8125. Have you any personal experience or knowledge of a person so engaged as a settler in the Bombay Presidency?—I have seen several; one is a witness who, I believe, is to be examined here to-day.

8126. Are you aware of the practical results of their settlement as regards the remuneration that the land affords?—They are not engaged, I think, directly in the cultivation of the soil.

8127. Are you acquainted with any man who is absolutely engaged in the cultivation of the soil as a settler in Bombay?—No.

8128. The case does not exist, in fact?—I cannot say that it does not exist.

8129. But, as far as your knowledge goes, it does not exist?—The only case I know of is the case of a Mr. Dickenson, who was a sugar-planter in the Poonah Collectorate. He commenced, I think, at first, by cultivating the land himself; but he soon gave that up, and bought the produce he required to use for the purpose of making it into sugar from native cultivators, because he found that a more profitable way of managing his business.

8130. You are not aware, then, of any proprietor of land in the Bombay Presidency who is engaged in its cultivation as a settler?—Not a European.

8131. Consequently, the evidence you have given us in relation to the laws and facilities of transport, and everything else, is based upon hypothetical conclusions rather than practical results which have come under your own observation?—Of course the only parties from whom you can get information upon those subjects, based upon actual experience, are the settlers themselves.

8132. But you tell me that there are none?—There are some European settlers.

8133. But no settlers who are engaged in agricultural pursuits?—There are one or two who are engaged in pursuits connected with agriculture; there is a witness here to-day who will tell you a good deal more upon these subjects than I can.

8134. You have gone very minutely into the question of producing and manufacturing goods in India; in the position which you held, did you pay particular attention

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attention to the productiveness of the soil, and the advantages or disadvantages of the laws with regard to the carrying on of the commercial operations of the country?—Yes; and on many occasions I brought my views upon those subjects before the Government.

8135. You have expressed an opinion in an answer which you gave to a question put to you by Mr. Willoughby, that manufacturing industry is likely to produce greater profits, to the people of India than agricultural pursuits?—Yes.

8136. Are you aware that the agricultural commerce of Bombay, as regards export, has increased 400 per cent. at least within the last 30 years, and that Bombay, which was an export manufacturing country before that time, has ceased to export manufactures?—Yes.

8137. How do you reconcile those two states of things?—I do not see that there is anything antagonistic in those two states of things; I think that manufactures under European superintendence, with the advantage of European appliances, machinery, and so forth, owing to the great cheapness of labour in India, could be more profitably carried on there than perhaps anywhere; of course, experience alone can prove whether I am right or wrong, but that is my idea, viz. that the low cost of labour in India, and the advantage of having the raw material on the spot, would enable the manufacturers there to compete with manufacturers anywhere in the production of particular things.

8138. Having devoted considerable attention to, and taken considerable interest in the relative cost of the productions of the soil in Bombay, perhaps you may be able to tell us what proportion the market price of the commodity produced bears to its original cost of production?—That of course depends on the place where it is grown, or the distance, and the obstacles intervening between it and the market where it is sold.

8139. Are you aware that since 1853, the prices of linseed and other such commodities in Bombay, have risen 100 per cent.?—I am quite aware of that.

8140. Bearing in mind that in this manufacturing country, England, or the Continent of Europe, the manufacturers are content if they get from 5 to 10 per cent. upon the manufactured article, do you think it possible that any producer on the other side could at all compete with the production here, or that the employment of capital in Indian manufactures could be made as remunerative as agricultural pursuits, which show a profit of 100 per cent. within the last five years?—I think that if the raw produce has to be conveyed from the place of production to Bombay in the first instance, if it has then to undergo all the expense of warehousing, of being shipped to England, of being manufactured here, and all the expenses of re-shipment, and of coming out again manufactured to India, all those things will constitute so many disadvantages against the European manufacturer that the manufacturer in India would be in a better position for conducting the manufacture profitably.

8141. *Chairman.*] Does not the cheapness of a manufactured article depend more upon the substitution of machinery for human labour, than upon the cheapness of human labour in a barbarous country?—Yes; but in my reply I have supposed that all these aids existing in Europe are to be carried to India, and are to be employed there.

8142. And does not the substitution of machinery for human labour depend upon the abundance of capital in the country?—Of course it does.

8143. And, therefore, will not the advantage be seen in a country where the capital is, and not where the cheapness of human labour is?—I think that as India advances in capital it will also advance in manufactures; but I do not in any way mean to say that that will interfere with the development of the import of British manufactures into India; I think that that will go on increasing. I do not think that the two views are in any way antagonistic.

8144. Mr. *Campbell.*] Practically, as there are no European settlers in Bombay we have no results before us?—There are, as I have already stated, one or two instances of settlers.

8145. A sugar buyer?—Yes; and there is also a witness here who will speak upon the point.

8146. Are you aware that Sir Robert Grant, when he was Governor of Bombay, made efforts to encourage the purchase by, or the grant of land to, the officers of the military or civil services of the country?—No; he may have done so, but I am not aware of it.

8147. As regards the practical working of the laws, with reference to settlers generally, there being no settlers there, we can have, of course, no information, and you, being one of the Company's own servants, were of course under their particular care?—No; I am perfectly unbiassed, I am not in the Company's service, I have left it.

8148. But you were in their service when you were in India, were you not?—I was.

8149. Mr. *Willoughby.*] You were an officer in the army?—Yes.

8150. Mr. *Campbell.*] You never had any question as to land, or as to the production of commodities, to settle with the Government in your official capacity, had you?—No.

8151. So that you do not really know how the laws, if you had had such a question to settle, might have affected the settlement of that question?—I think I should know how they would affect it; but I have never owned any land in India.

8152. You have never transported goods of your own by the existing roads, and consequently of your own knowledge, as to the difficulty and the cost of conveyance, you are not prepared to give evidence?—Not evidence derived from my own personal experience.

8153. Carriage by carts drawn by bullocks is a very costly mode of conveyance, is it not?—If the distance is great, of course it is; but it is much cheaper than pack-bullocks.

8154. It is costly as compared with conveyance by railways, is it not?—I should think so; but I do not think that the comparative cheapness of that mode of conveyance is completely established yet.

8155. It is very tedious also, is it not?—Yes, very tedious.

8156. You stated, in answer to a question put to you by the Honourable gentleman who last questioned you, that 25 miles a day was about the speed of a bullock cart; are you prepared to say that that speed could be maintained for any length of time, or that it is a usual speed at all?—I think that 20 miles a day is about the usual speed on the metalled roads.

8157. For how long could that speed be maintained, do you think?—I conceive that that speed might be maintained for the whole distance; that produce has to be taken in the Bombay territories from the place of production to the coast.

8158. Are you not aware that the ordinary marches of any army, or the ordinary distances performed by carts going a month's journey, is not greater than from 10 to 15 miles a day at the utmost?—I do not think that that refers to first-class roads.

8159. In Bengal it does, if it does not in Bombay?—Men marching is not a test of the speed of bullock carts.

8160. Is it not the case, that with bullocks carrying freight from Calcutta to Delhi, 15 miles a day is the extreme distance they can go?—That is a much longer march than any they would have to take in the Bombay Presidency.

8161. Can you tell us to what extent good roads are open in the Bombay Presidency?—I do not know accurately, but I should suppose that there were about 500 miles.

8162. Can you form a more correct estimate of the length of bad roads?—The cross-roads are, of course, more extensive than the others.

8163. As compared with the roads existing in any civilised country, in this country, for example, what may be the extent of roads in Bombay?—It is very limited indeed.

8164. Is it a 10th or a 20th part?—I do not know what the number of miles of roads is in this country, but I should think that there is not more than one-tenth the number in the Bombay Presidency.

8165. You have alluded to the want of population in certain parts of Bombay; do you not think that the want of facilities for communication may have something to do with that want of population?—Undoubtedly, if there had been better means of communication, it would have promoted intercourse between different parts of the country, and would in that way have facilitated emigration.

8166. Because where there is production without roads, there are no means of transit, and therefore there is no object in the settlement?—That is so.

8167. I suppose you are of opinion that considerable advantage would result to the natives of India, by bringing them into closer connexion with European capital and enterprise?—I think so.

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8168. You think it would have a surprising effect upon the people, do you not?—I do.

8169. Do you think it would have a beneficial effect also upon their moral and social condition generally?—I should hope so.

8170. And do you think that their material well-being would be advanced by it?—I think so; I hope so, at all events.

8171. Would not a larger settlement of Europeans, having identity of interest, feelings, and pursuits with the people of India be calculated to strengthen by natural means our power over them, and economise the European force that henceforth we must be prepared to maintain in that country?—I think there can be no question that the settlement of Europeans must have a tendency to strengthen our hold upon India, but I am not of opinion that within any short period it is at all likely to do so very materially.

8172. There is a very wide line of demarcation, is there not, between the governing and the governed, in consequence of their not being engaged in or mixed up together in the same pursuits?—Yes, I think there is, owing to their being foreigners, and having different habits, associations, and pursuits.

8173. In what terms do the natives of the Bombay Presidency generally address an officer in the civil or military service?—" Sahib.

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8174. Do they say as they do in Bengal, Khodabang ape ka Gulam, My Lord, your slave"?—No, simply " Sahib," that is the usual style of address."

8175. Are you of opinion that the line of demarcation, which exists between the services and the people of the country, is such as to prevent the services from arriving at a just appreciation of the wants, feelings, and condition of the people?—Of course, independent settlers would be able to form a better opinion, as regards all questions affecting themselves, but I do not know that they would be in a better position to form correct opinions, with regard to questions affecting the natives, and having perhaps an unfavourable operation on the interests of European settlers.

8176. You have stated, I believe, that in your opinion the production of cotton in India will never reach the point at which it has arrived in America?—That is my present impression.

8177. Are you acquainted with all parts of India which are capable of producing cotton?—No, I am not acquainted with all parts of India that are capable of producing cotton, but I am acquainted with those parts which do usually form the cotton fields. I believe that cotton may be grown over a great part of India, but I do not think that it could be grown profitably.

8178. But supposing the land to be put under a better system of irrigation, and to be subjected to a more judicious treatment, may not the production of cotton on the present cultivable soil be doubled in your opinion?—Yes, I should think it might be doubled, were it possible and profitable to produce cotton in the mode supposed.

8179. Then it is rather a sweeping assertion to make, is it not in the absence of such information, that India is not capable of growing as much cotton as America grows at present?—I have merely stated what my own opinion is, derived from such a knowledge of India as I possess.

8180. Mr. *Gregson.*] You have stated that cotton cultivation has been greatly extended lately, owing to an increase in the price of it; is that increase still going on?—I believe so.

8181. Do you know what quantity was produced a few years ago, and what is the present production?—No.

8182. Do you not think that Europeans will be gradually induced to employ their capital in the cultivation of cotton, or to make advances to the natives for the purpose of its cultivation?—They may do so; it will depend, of course, upon considerations of profit.

8183. Are there any impediments to their doing so?—I do not think there are any impediments, except, perhaps, the mode of administering the law.

8184. Is not the rate of interest paid a great inducement to Europeans to advance capital, with a view to the cultivation of cotton?—I do not feel myself competent to form a judgment upon that question.

8185. Are there any experiments going on at present with a view to the better cultivation of cotton, by the introduction either of better seed or machinery for cleaning the cotton?—Yes; I have before stated that the American saw-gin has been successfully introduced.

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8186. Mr. *Danby Seymour.*] Do you think that the limit is now reached for reducing the assessment in Bombay?—I think so; I think there is no probability of the assessment having to be reduced further.

8187. Up to the present time, it has resulted in an increase of revenue to the Government, has it not?—Yes.

8188. Do you think that if it were reduced still lower more land might be cultivated, and that a larger revenue might be gained by the Government?—Certainly not; because already all land that is of much value has been brought under cultivation, the remaining waste lands are of inferior quality, and therefore any further reduction of assessment would involve a direct loss of revenue, without the possibility of increase.

8189. Do you mean that all the lands that can be cultivated in the re-assessed districts have been cultivated?—All except very inferior lands.

8190. How long has this re-assessment been making in the Bombay Presidency?—The first experiment commenced in 1835, and the work is still going on.

8191. It is not half finished yet, is it?—It has only been within the last five years that it has been carried on with any considerable vigour.

8192. Is it not the fact that the old assessed districts pay more than will enable them to cultivate the land with profit, while they produce the largest revenue to the Government?—Not always; the assessment has been reduced in some of the old assessed districts; for instance, in the Collectorate of Broach.

8193. Without a re-survey?—Without a re-survey.

8194. You have stated that the cultivation of New Orleans cotton is on the increase?—Yes, in one particular district.

8195. Which district is that?—The Southern Mahratta Country.

8196. Have you seen the reports which have been made within the last year or two to the Court of Directors from the collectors and other persons engaged in promoting the cultivation of cotton in that country?—No.

8197. You are aware, are you not, that there have been such reports, and that they are unfavourable to the experiment?—I am quite aware that up to the period of my leaving India the experiment had failed in most of the Bombay districts, with one exception, to which I have alluded.

8198. Are you not aware that the reports from the South Mahratta Country have all been unfavourable?—No; on the contrary, I have shown that the cultivation of that cotton there has been steadily increasing; if the Committee will allow me to do so, I will state what, in my opinion, is the cause of the success there. In Dharwar it arises from the climate suiting this variety of cotton better than the climate of other districts. There are some parts of Dharwar where this very cotton has been tried and failed, the climate being too dry.

8199. Your answer to a former question put to you on your last examination left an impression that the cultivation of cotton is on the increase?—In that particular district; I mentioned it as an instance of the capabilities of the natives to adopt improvements, and I put in a Table which had been sent to me privately by a friend there, bringing the information down to 1856–57.

8200. Are you aware that the discontinuance of the experiment was recommended to the Government on account of its failure?—No, I am not aware of it.

8201. You say that everything depends on the faith which the subject has in the Government; do you think there is that faith, of which you speak, entertained of the English Government by their subjects in India?—I think so.

8202. Do you think that allowing settlers to come more freely into the country would increase that faith?—I think that the longer the Government lasts and continues to act in good faith towards the people, that feeling will strengthen.

8203. Do you think, looking at all the petitions that have been presented to Parliament by natives of the various Presidencies, that they are contented with the state of things existing up to this time?—There is no doubt that throughout India many causes of complaint exist.

8204. Which might be remedied?—Which I hope might be, and which eventually will be remedied, I have no doubt.

William Thomas Thornton, Esq., called in; and Examined.

W. T. Thornton, Esq.

8205. *Chairman.*] HAVE you ever been in India?—Never.

8206. Then your experience is derived entirely from your position at the East India House?—Yes.

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8207. What is that position?—I am one of the assistants to the examiner, and I conduct the correspondence regarding public works.

8208. Mr. *Mangles.*] Will you give the Committee, as briefly as you can, an account of the state of the grand trunk road from Calcutta to Lahore?—The grand trunk road is completely metalled as far as Delhi, and I think as far as Kurnoul; it is completed to Lahore, and portions of the distance between Delhi and Lahore are metalled also, but it is not continuously metalled. With regard to the character of the road, it is 30 feet broad, of which 14 feet are metalled between Delhi and Calcutta; it is metalled with what is called kunkur, nodules of limestone beaten together, and which form a complete hard substance as smooth as a table, and as hard as mortar.

8209. Mr. *Kinnaird.*] That is what is called a metalled road?—Yes; but it does not follow that every metalled road is metalled with kunkur; this grand trunk road is so metalled. There has been some question I believe made as to the bridges upon it. I saw the other day the way-bills that are given to every traveller along the road by the Transit Company.

8210. That is not a Government department?—No; it is a sort of mail-coach company. A dawk company I believe it is called. These way-bills give the name of every unbridged river, of which there are seven or eight between Calcutta and Delhi. No rivers are mentioned as unbridged beyond Delhi, but there is no bridge I think over the Sutlej at Loodianah, nor over the Beeas.

8211. Mr. *Campbell.*] When did you see this way-bill?—A few days ago.

8212. What date did it bear?—It was given to me by a friend who travelled from Calcutta to Lahore at the end of 1855, and returned by the same road the beginning of 1856. There was a column showing the unbridged rivers, the names of which I took down.

8213. Mr. *Mangles.*] Have you got the names here?—Yes; the Hooghly, the Muggra, the Barakur, which is now having a bridge made over it, of which there is a picture before the Committee; the Leelazam, the Boodia, the Morhur, the Buttanee, the Soane, and the Ganges, at two places, at Rajghaut and at Allahabad. Those are all the rivers that are unbridged between Calcutta and Delhi; every other river is bridged. I have some particulars also with regard to the rivers that are bridged. There is a bridge over the Barakur river, of nine arches, each of 50 feet span. I may mention that a gentleman who travelled lately along the road, told me, that he was struck, not by the paucity of bridges, but by their needless costliness in some places. He said he found bridges which had been apparently placed there rather to show the skill and taste of the architect than anything else. There is a handsome suspension bridge over the Pompon; and over the Kharmanasa, a river 300 feet wide, is a bridge built by Mr. James Prinsep, which the Calcutta Review calls a noble structure.

8214. Mr. *Villiers.*] You are now quoting from official documents at the India House, are you not?—Generally I am; but the notices of the bridges over the Pompon and the Kharmanasa I take from the Calcutta Review.

8215. Mr. *Mangles.*] Mr. Waller, in Question No. 5238, is asked this question: "Generally speaking, are the roads good which go from Calcutta to the interior of the country?" And his answer is, "There are no roads; there is but one road, which is called the Great Trunk Road; there is a want of bridges on that road, and you have to put your conveyance and yourself into a ferry boat, and get across in that way. That was the case even in 1854." What is your opinion with regard to the correctness of that statement?—I think that the plan behind me is a satisfactory reply to it; it is a plan, not of the whole road, but of a part only, and it gives sketches of the bridges upon that part of the road; it is a section which ends somewhere between Delhi and Calcutta.

8216. Have you counted the number of bridges which appear there?—No, I have not, but there is nothing extraordinary in the number of the bridges; it is quite a common thing on other roads. I could mention the names of roads on which you would find two bridges at every mile. There is a road from Rajghaut to Kuttack, 131 miles long, with 284 bridges upon it.

8217. Mr. Waller has stated that there are no roads; is there not a road from Calcutta to Kuttack?—Certainly.

8218. Is that road bridged throughout?—Yes.

8219. Can wheeled carriages go upon that road?—Yes; I perfectly recollect having seen it stated that they do.

8220. [Mr. *Vansittart*.] Is it a fine large main highway road?—It is a large highway road. I do not think it is in good condition at all.

8221. In your opinion, except in the rainy season, might you not drive a buggy over it?—I have never been in India, and I have never seen the road.

8222. Mr. *Campbell*.] Are there no official reports that come under your cognizance in the India House, describing the condition of these roads and bridges from time to time?—I saw a report as to the road to Kuttack about two years ago, by Mr. Armstrong, a civil engineer, who was sent to survey it for the purpose of putting it in perfect repair.

8223. Mr. *Mangles*.] Then the whole way from Calcutta to Delhi, you find only eight rivers unbridged; and as to one of those rivers, I think there is a contract now for iron girders for a bridge?—Yes.

8224. Have those iron girders been shipped?—When I inquired a few days ago, I found that two-thirds of the iron girders had gone, and that the other third was under orders for shipment.

8225. Can you give the Committee any notion of the size of those rivers that are not bridged?—I can mention the Soane. The Soane is three miles wide.

8226. Then the bridge will require to be three miles long?—Yes.

8227. And that is one of the bridges that is not constructed?— Yes; and there is another wanting over the Hooghly.

8228. A witness (Mr. Mackenzie) has stated that, under the native governments, Bengal had much better roads than any that now exist in that country; what are the facts as regards that?—It is not an easy thing to prove a negative, and when any man says that there have been roads, of which there are now no vestiges, the *onus probandi* ought, I think, to be upon him; at the same time, there is some slight foundation for what he says. There are allusions in ancient laws and in other documents of that kind, which show that both the Hindoo and Mahomedan monarchs, down to the latest period, did take a great deal of interest in the main roads; for instance, in Mr. Elphinstone's history there is an inscription mentioned which dates from the third century before Christ, in which an order is given that highways should be planted with trees and provided with resting houses, and that wells should be made at certain intervals. Then, again, there is an Arab traveller, who travelled in India in the middle of the 14th century; he particularly speaks of a road along the coast of Malabar, and he says it is planted with trees, and that there are resting houses and wells at regular intervals, and he also says that on that road there was a good foot and horse post; and there are some similar allusions to other roads at subsequent periods. It is clear, therefore, that there were in ancient times roads of some sort or other; but there are two questions to be asked, first, whether these roads were numerous, and secondly, what kind of roads they were. Now, one thing that gives us reason to suppose that they were not very numerous is, that everybody who alludes to them does not speak of roads generally, but of some particular road, as if it were an exception to the general rule. Then considering that those were Government roads, and that it would be scarcely possible for Government to establish good roads in every part of the country, it may be presumed that it was only the large roads that they particularly attended to. Then, these main roads could not have been paved like the Roman roads, or there would be some remains of them, and no one pretends to have found any trace of an Indian Appian way; neither could they well have been Macadamized so many centuries before the time of Macadam. Probably, therefore, they were merely earthen tracks, or what are now called in India, kutcha roads. As to their condition, something may be gleaned from accounts given by travellers who visited India, after India became accessible to Europeans. It is a good many years ago since I read the travels of Sir Thomas Roe, or of Coryat, or Bernier, but I looked through them the other day. I do not observe that direct mention is ever made either of the goodness or badness of the roads, but there are some things said about them which throw some light on their condition; for instance, Sir Thomas Roe, who was ambassador from James the First to the Great Mogul, after landing at Surat, left that place on his way to Ajmeer, where the Emperor then was, on the 30th of October, and did not reach Ajmeer till 23d December. He states how many miles he travelled a day; one day he goes nine miles; nine miles of "rocky way," he calls them; this was soon after leaving Surat; another day he goes 15 miles; on another, 18; he scarcely ever effects 20 miles, and having left Surat on the 30th October, he does not reach Ajmeer for nearly two months.

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8229. Mr. *Danby Seymour.*] Driving with his own horses?—He does not say how he travelled.

8230. Mr. *Mangles.*] But Bengal was the point that he particularly mentioned. Is there any trace of roads which existed in Bengal when we assumed the Government of it?—None of these travellers appear to have travelled in Bengal, because in those days Delhi was the capital of the Mogul monarchy. I do not think that any one of them went into Bengal; but if there were not roads near the capital, they would scarcely be found in a distant province.

8231. But you have never found in your researches any trace of roads which formerly existed in Bengal?—None whatever.

8232. Mr. *Danby Seymour.*] When you say that there are eight unbridged rivers, do you speak from official documents, or from communications which you have received from friends?—If the way-bills of the Dawk Company are official documents, then I speak from them.

8233. You speak then on the authority of the way-bills?—Yes; there are eight unbridged rivers between Calcutta and Delhi, a distance of 837 miles, and no unbridged rivers are mentioned as between Delhi and Lahore, but I do not know what that distance is.

8234. You only know eight cases where a traveller had to get out of his palanquin to be ferried across?—No, provided the bridges were not out of repair; they might have been injured by an inundation, or something of that kind.

8235. Mr. *Mangles.*] What are the orders which have been sent out to India repeatedly of late years with regard to the construction of midland roads, as feeders to the great stations of the railways?—The Court have taken every opportunity of pointing out the importance of it. I have here a copy of a despatch, printed by Order of the House of Commons, and in that despatch, in two places, the attention of the Government is drawn to the matter. The Court, writing to the Government of India on the 17th of April 1857, say, "We have already pointed out to you, on more than one occasion, how desirable it is, that, simultaneously with the railways, lateral roads, which may serve as feeders to them, should be constructed." In the same despatch, in another place, it is said, "In your correspondence in this department, both with the subordinate Governments and with ourselves, you have, on more than one occasion, alluded to the inportance of specially regarding, in all new plans for common roads, the course likely to be selected for railways in the same vicinity."

8236. Then the attention of the Government has been specially and repeatedly directed to the importance of making these feeders?—Yes; not only that, but once or twice when the Government have proposed to make a road without regard to a railway that was likely to be constructed in the same direction, or near it, the Court have disallowed that road on that account; they have said, "However useful it might be otherwise, it would be undesirable to make it now, considering the railway is to take the same direction."

8237. You have mentioned one other road from Calcutta to Cuttack; what other metalled roads are there?—I might almost say their name is legion; it is impossible to state how many there are without referring to the books; in the whole of Bengal, independently of the roads which are made by Government directly, there are roads made by what is called the district committee of each district from funds placed at its disposal by the Government; these roads are sometimes earthen, but they are also very frequently metalled roads. No doubt they are very often in bad condition, but they are also sometimes characterised as too good for their purposes; as being better than it was necessary to make in such situations; that earthen or kutcha roads would have answered the purpose equally well in the Lower Provinces. I found this stated in a minute of Mr. Halliday's (the Lieutenant-governor of Bengal) the other day. He says, "If you had metalled roads in the Lower Provinces, those roads would not be used during the rains, because then the rivers are the best highways; and in fine weather the earthen answers as well as the metalled roads, and therefore he recommends that instead of metalled roads in Bengal, which cost at least 300 *l.* a mile, they should begin by making kutcha or earthen roads wherever roads are wanted.

8238. Mr. *Kinnaird.*] How much a mile would kutcha roads cost, as against 300 *l.*?—I cannot state the average cost; the cost varies very much in different places.

8239. Mr. *Mangles.*] Some witnesses have stated that roads can be made cheaply in Bengal; you say that they cost 300 *l.* a mile?—The cost of roads varies;

it depends a good deal on whether there is metal near or not; in Madras, for example, a metalled road may be made in some places at much less cost; I find that one road cost only 90*l.* a mile; that is an unmetalled road: I do not know in what particular part that was; I am speaking now from some memoranda which I did not put down with reference to this Committee at all, but for my own general use. I find that another road, which is bridged all over except where there are considerable rivers, cost 133*l.* a mile; all these roads are in the Madras territories. Another road in Madras, metalled and bridged, cost 230*l.* a mile; then I have the cost of the Grand Trunk Road, that is said to have cost 1,000*l.* a mile, but that seems to have included the cost of bridges which have not yet been made; the real cost, up to 1848, was 584*l.* a mile.

8240. Can you speak at all as to the number, or can you give any approximation to the number of bridges that have been built upon the roads in Bengal?—I can give some particulars of particular roads: between Raj Ghaut and Cuttack, a distance of 131 miles, there are 284 bridges; then on another section of the same road, the Khoorda road, there are 200 bridges.

8241. Mr. *Kinnaird.*] What is the paper to which you are referring?—A despatch of the Court of Directors to the Government of India, dated the 17th April 1857.

8242. Mr. *Mangles.*] Are there in fact throughout Bengal a great number of roads, and a vast number of bridges?—Certainly; I do not say that there are nearly enough, there is a great want of roads no doubt, but there are certainly a very great many roads.

8243. Now with regard to the east of Bengal from Calcutta, has the engineer reported that a railway could be made more cheaply there than a metalled road?—I was not aware of that.

8244. Mr. *Danby Seymour.*] Did not Mr. Halliday write a minute upon the roads of Bengal a year or two ago?—No doubt he did; he probably writes one every year.

8245. Do you remember a minute in which he complained of the wretched state of roads in Bengal, and recommended the Government to set about a plan for making 300 miles of road?—I never read that minute, I have read a more recent one.

8246. Do you remember reading a minute in which he says, that going towards the interior, and richest parts of Bengal, there is not a metalled road six miles out of Calcutta from Jessore?—A road is under construction to Jessore now.

8247. But is it not the fact that in this year, 1858, there was not a metalled road to Jessore?—I will not undertake to say.

8247.* Towards the interior of the richest parts of the Bengal Presidency, how far is there a metalled road out of Calcutta?—There is a road from Rajghaut to Cuttack.

8248. Is that the most important part?—It is not.

8249. To the east of the Ganges, what roads are there?—There can be no question that there is a great want of roads.

8250. Are you sure that a wheeled carriage can go more than 12 miles on a metalled road in the direction of Jessore?—I do not know that the road to Jessore has been begun yet. I know its construction has been authorised.

8251. You read, do you not, most of the reports sent to the Government from your executive engineers about roads and public works?—Yes.

8252. Do you recollect last year a report from the executive engineer of the Assam district, in which he says that the Government are pursuing a very bad and wasteful plan, and one to which he thinks it his duty to call attention; that is, spending money for three or four months in the year in making roads which are immediately washed away; which are of no use to the people, and which only serve year after year to put money into the pockets of those who are engaged in making them?—I do not recollect such a report.

8253. Do you see the various communications, and do you see drafts after they are altered by the Board of Control?—Yes.

8254. Do you remember the draft coming up last year to the Board of Control on this subject?—I was away ill during great part of last year.

8255. Mr. *Campbell.*] You appear to have studied the question of roads, and to have had it under your peculiar department in the East India House, you, of course, are aware at what date the Grand Trunk Road was commenced?—I do not recollect the date; I know it was finished as far as Delhi some years back.

8256. With

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8256. With the exception of the eight bridges you have mentioned?—Yes.

8257. You have given us evidence showing a good deal of antiquarian research with reference to the ancient roads of India, and you have read an extract from a despatch from the Court of as recent a date as 1857, but you have shown nothing that the Court did between 1831, when Lord William Bentinck commenced the Grand Trunk Road, and 1857. Now I should like to know what information you possess as to the construction of this Grand Trunk Road; its commencement and progress, and whether it is not the fact that the thousand miles from Delhi to Calcutta is not yet finished; that is to say, that the eight bridges you have mentioned are not finished, and that a great portion of the road itself was not finished up to a recent date?—If by saying that the road is not finished, it is meant that the eight bridges have not been made, that is admitted, but in every other respect I believe the road to be the most perfect road on the face of the earth; it is as level as this table, and the rise is only 20 inches in a mile.

8258. You are aware, are you not, that the first portion of the road from Delhi to Allahabad was finished during Lord William Bentinck's stay in India; but that the portion from Allahabad to Calcutta was in no state of progress eight or ten years ago, ten years after he left India?—No, I was not aware of that.

8259. Mr. *Villiers.*] I understand you to say you are wholly incapable of giving us information as to the state of these roads before 1855?—I do not feel myself competent to give evidence as to any earlier period.

8260. *Chairman.*] Until within a certain number of years there has been great inattention to roads, has there not, on the part of the Government of India?—That question must be answered comparatively, with reference to what takes place in other countries.

8261. But do you not think, speaking fairly, that there has been great inattention paid to roads?—I cannot answer such a question simply with yes or no. The Government may have done little in one sense, but they have done as much as it was possible to do with the means at their disposal.

8262. Do you not think that until within a more recent time there has been a great neglect of the means of communication in India?—Scarcely neglect; the Government has done what it could, and more than any other Government ever did.

8263. Mr. *Vansittart.*] Do you suppose that there is less care bestowed upon roads in India than there was previous to 1845?—Quite the reverse.

8264. Previous to 1845 were not the roads principally under the management of the magistrates of the different districts?—I believe they were.

8265. Is it not the fact that there is scarcely a single district throughout India that is not connected with another district by means of a good road, and that that road is generally made by the two magistrates of the two districts; for instance, the magistrates of Bhaugulpore and Monghyr, a distance of 40 miles, would each send out a few hundred convicts, and by means of these convicts you would have a good road between those two districts. And is not this the system generally pursued with reference to all our districts in India; I am speaking of previous to 1845, when I was magistrate of Monghyr?—That is the kind of thing that is still done now by district committees.

8266. The result is, that what Mr. Waller says as to there being no roads is not borne out by facts?—It is not.

8267. Mr. *Lowe.*] You have mentioned two roads out of Calcutta; do you know any other?—Yes, there is a road from Calcutta to Benares.

8268. Any other?—There is one to Barrackpore, and another to Baraset, in the direction of Jessore.

8269. Is there any road to the sea?—I do not know that there is.

8270. Mr. *Willoughby.*] Did I understand you rightly to say you considered that public roads had been neglected by the Government of India?—Surely not; I think that an answer to that question ought to be comparative; I think that, compared with what other Governments have done, not only has there been no neglect on the part of the Government of India, but their conduct with regard to roads has been most exemplary. The British Government never made any roads, except those in the Highlands, whereas all the roads in India have been made by the Indian Government.

8271. You have spoken of eight rivers that are unbridged on the Great Trunk Road; can you assign any reason why they have remained unbridged?—It has been owing, in a great measure, to the great difficulty of bridging them.

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8272. On account of the enormous width of the river?—Yes; or in some instances from the want of a good foundation, or shifting sands. I feel assured that such rivers would have remained unbridged in any part of Europe, except Great Britain.

8273. Are not six of the unbridged rivers in the lower provinces?—Yes.

Veneris, 16° *die Julii*, 1858.

MEMBERS PRESENT.

Mr. Willoughby.
Mr. William Vansittart.
M. Danby Seymour.
Mr. Gregson.
Mr. Campbell.
Mr. J. B. Smith.
Sir Erskine Perry.
Mr. Mangles.
Mr. Lowe.
Mr. Kinnaird.
Mr. Villiers.

WILLIAM EWART, Esq., IN THE CHAIR.

James Landon, Esq., called in; and Examined.

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8274. *Chairman*.] IN what part of India have you been?—In Bombay and Guzerat.

8275. Have you been anywhere else besides Guzerat?—Not to reside.

8276. How long were you in India?—About 11 years.

8277. In what capacity?—As a cotton merchant.

8278. When did you return to this country?—I returned about 12 months ago.

8279. Have you ever turned your attention to the question of the settlement of Europeans in India?—Yes.

8280. You are a settler yourself, are you not?—Yes.

8281. Do you propose continuing to reside in India?—My property is still there; at least I have a cotton factory there, besides other interests.

8282. Do you go there now and then to look after it?—Yes.

8283. What class of settlers are most required, do you think, in that part of India in which you have been?—I think that mercantile men are most required in western India. I know of no other class of settlers that could find profitable employment in India. I do not expect to reside there for any length of time hereafter, though I intend returning there in two or three months, to look after my property.

8284. Where and how do you think settlers could be best employed?—I think they could be best employed in the districts in which produce is grown for exportation. I think those would be the only places where they could be advantageously employed.

8285. And how do you think they could be employed?—In purchasing the produce from the cultivators when it is ready for market; in instructing them in improved methods of preparing produce for market.

8286. What do you think is most required to attract settlers to the interior?—I think that that which is most wanted, is the development of a system of roads and railways; railways particularly, as affording the readiest and speediest means of access to the interior, and the transportation of produce from the interior to the sea coast.

8287. And canals also?—I am not aware of any districts in which canals could be constructed with a view to promote that object.

8288. Nor irrigation generally?—Irrigation in some districts may be introduced with advantage upon certain kinds of crops.

8289. Could it be introduced with advantage in the part where you have been?—Not for the purpose of general crops, such as are cultivated at present; but in the

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the alluvial soil on the south bank of the river Nurbudda opposite Broach, irrigation might be advantageously introduced to a limited extent.

8290. Mr. *Willoughby*.] Is not irrigation from wells and tanks now extensively practised in Guzerat?—For particular crops, for sugar cane, plantains, &c., to a very limited extent opposite Broach.

8291. What is the state of the roads in Guzerat?—There are no regularly constructed roads, strictly speaking, in Guzerat; but within the last few years, the roads have been so much improved, as to answer every purpose of the cultivators under existing circumstances.

8292. You say within the last few years; within how many years would you say?—Within the last seven or eight years.

8293. What was the state of the roads before those improvements were effected?—They were in the state in which roads would be which were never constructed or repaired; they were natural roads.

8294. Trodden ways, I suppose?—They were cart roads.

8295. What sort of cart roads were they?—Very bad in some places: where the soil was soft the ruts were very deep.

8296. The roads are very good now, if I understand you rightly?—In some places, a pecuniary appropriation has been made by the Government for the repair of the roads, which is renewed every year; and where that appropriation has been so used, the roads have been made almost as good as could be desired for the native carts.

8297. Can you give us any idea of the extreme mileage of these improved roads?—I think all the leading roads in the Broach district might have been repaired, if the officers in charge of them had felt so disposed, as the appropriation has been ample for that purpose.

8298. Was there any fault on the part of the officers who were entrusted with the charge of these roads?—Different officers take different views of the subject. I have known in one or two instances officers repudiate the idea that, with the small appropriation that was made a road, which could be called a road, could be constructed, or that the sum was sufficient to repair the road to any appreciable extent.

8299. Is there a want of combined action on the part of the officers?—The appropriation is placed at the disposal of the collector, who distributes it among the districts in charge of his assistants, by whom it is expended or not at their discretion.

8300. You are speaking of the roads in Broach at present?—Yes; to give an idea of the extent of the improvement that that small appropriation made, which was only about 30 rupees a mile, I may mention that the road, before being repaired, consisted of ruts so deep that, if two carts met, it was quite impossible for either of them to get out, and that condition extended for some miles in certain places, whereas, after the expenditure of the small sum appropriated, the roads were made as smooth and as convenient as a road need be for the purposes required.

8301. Were they passable in all weathers?—In the monsoon they are not necessary, inasmuch as the natives lay up all their carts during the rains.

8302. Employing their bullocks in agriculture?—Yes.

8303. *Chairman*.] What is the material of these roads?—Black soil.

8304. Is that good material for roads?—In the dry season it forms a perfectly hard and smooth road, and in the wet season it is quite impassable.

8305. Does it require renewal after the wet season?—The roads are generally repaired after the wet season has closed, and that is sufficient for the whole of the next dry season.

8306. What is the black soil?—Alluvial soil on which the cotton is grown.

8307. What is the condition of the roads in Guzerat?—The Surat district is very much the same as the Broach district, and the roads have been repaired in a similar way; I am not able to say whether they have been repaired to so great an extent as in the Broach district; but the main road leading from Surat to Broach, which is about 40 miles, has been so repaired, and is what may be termed a very fair road.

8308. Are all the roads made of this black soil?—Yes, as far as the black soil extends. There are districts containing other kinds of soil. In the red or goorat soil, as it is called, the roads are never bad, because that is a hard soil, and does not cut up like the black soil, consequently these roads require less repair.

8309. Do you think that the trade of that part of the country has suffered much from the want of roads in former times?—No; I do not think it has suffered to any extent. When I speak of the trade of that country, I mean the local trade.

8310. My question applied not to the local trade, but to the external trade, beyond the mere local trade?—That has been interrupted to some extent, inasmuch as carts could not travel so fast over bad roads as over goods roads, nor could they carry such heavy loads.

8311. You said, I understand before, that merchants are the best settlers; I suppose they would be best situated near places of export?—They are.

8312. What are the ports?—In Guzerat the chief ports are Surat, Broach, Gogo, Dholera, and Tunkaria Bunder.

8313. Is there any improvement required in those ports?—Yes; they are just in the same state as they always have been.

8314. Which are the best ports of those you have mentioned?—Gogo is considered the best port, but perhaps it possesses the least trade; it is on the north side of Cambay, on the coast of Kattiwar.

8315. Do they require anything to be done to them to make them better harbours than they are?—It is possible to dredge the river, but all the rivers in the west of India are very shallow; even the largest rivers are not navigable except for small craft such as the native boats.

8316. Do you think that an improvement in the ports would be an advantage to British settlers in that part of the country?—I do not think it would have a very great effect upon the interests of European settlers.

8317. Has the production of Guzerat increased much within your memory?—Not a great deal.

8318. It is principally cotton, is it not?—Yes.

8319. What is there besides cotton?—Grain, some seed, and a little hemp.

8320. Is the grain of a good quality?—The wheat of the Broach district is the best in western India.

8321. Is it exported?—To a limited extent, shipments have been made, but the state of the English market has seldom been such as to offer inducements; I have tried the experiment myself. Bombay is nearly altogether supplied from Guzerat.

8322. Has the cultivation of grain much increased?—No; I do not think that the cultivation of grain has much increased, there being no external demand for it.

8323. Has the cultivation of cotton increased?—The cultivation of cotton has increased.

8324. Within your memory?—Yes; more cotton is exported from Bombay now than there was when I first went to India.

8325. My question applied to that part of the country with which you are most conversant, Guzerat?—For a long time, I believe, a due proportion of the cultivable soil of the Broach district and of the Kattiwar district have been under cotton.

8326. Mr. *Mangles.*] The full proportion?—Yes; allowing for the proper rotation of crops, cotton can only be cultivated once in three years, to advantage, on the same land. The quantity cultivated depends upon the state of the English and the China markets.

8327. Mr. *Willoughby.*] You mean it depends upon the prices obtainable there?—Yes; if the prices are high, a greater proportion than one-third of the land is placed under cotton, as, when prices are high, it will answer the purpose of the ryot to cultivate cotton for two years in succession, on the same land, rather than any other crop.

8328. *Chairman.*] Does not great uncertainty prevail as to the supply required from India in England?—Prices fluctuate a good deal in England; but the average price of cotton has been permanently raised within the last few years, so as to afford, on the average, a higher remuneration to the cultivator.

8329. Will not such uncertainty prevail as long as your cotton comes merely as supplementary to the American cotton, and not as competing with it?—I do not think that the East Indian cotton influences the prices to any appreciable degree in England.

8330. But is it not influenced itself by the superior quality of the American cotton

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cotton which makes the East India cotton merely supplementary, and places it at such disadvantage that it cannot come into competition with American cotton?—The East India cotton is of an inferior quality to that of America; it can only be manufactured to a certain extent; that is to say, if there were none but East India cotton in the world, all the fine fabrics would cease to be manufactured.

8331. Therefore it is merely supplementary to the American cotton?—Yes.

8332. Is the quality of the cotton cultivated in that part of India much improved within your memory?—The quality of the cotton is much the same that it has always been; it is largely affected by good or bad management.

8333. But has the management and cleaning of the cotton, and the application of what you may call science to the production of cotton in the market, improved its quality?—It has; it has been raised in value considerably by the greater care that has been taken with it within the last 10 years.

8334. What are the great improvements which have been made?—The improved methods of preparation; the greater care in the preparation, I may say, as far as the natives are concerned.

8335. Will you detail the improvements that have been made?—They have not altered their processes, but they have taken more care.

8336. Mr. *Willoughby.*] In packing?—In packing and in cleaning their cotton.

8337. *Chairman.*] Do they use the American saw-gin?—They do not.

8338. Do you think it would be an advantage if they did?—It would be a great advantage if they could be induced to use it.

8339. Do you think that if there were more European settlers there, and if more European capital were introduced, they would be likely to use it?—I have been using the American saw-gin ever since I have been there, but I am the only person in Guzerat who has used it: and my cotton has always, without any extra care, commanded a higher price, both in the Bombay and the English markets, than the native cleaned cotton.

8340. Then you have derived advantage from the use of it?—Yes.

8341. Mr. *Mangles.*] You say without any extra care; surely you have taken more care, have you not, in cleaning and packing your cotton than the natives do?—Yes. When I said extra care, it was with reference to the mode pursued in America.

8342. *Chairman.*] Do you not think that other cultivators of cotton will be inclined to follow your example, if you have been so successful?—I am not a cultivator of cotton. I see no reason why my example should not have been followed to a far greater extent than it has been. I know of but one instance in which it has been followed.

8343. Do the native producers show any intention to imitate your example?—No; they avail themselves of the use of my machinery.

8344. You let it out, do you?—When I am not using it myself, I allow native dealers to use it. I purchase cotton in common with native dealers from the ryots, who bring it in their carts from the fields, and when the state of the market is such as to induce me to operate on my own account, I employ my machinery in that way. Frequently, when I am not induced to purchase cotton, and the natives are, they will use my machinery to clean it.

8345. Mr. *Mangles.*] Is your saw-gin worked by steam?—Yes.

8346. *Chairman.*] Is it moveable?—No.

8347. Then they send their cotton to you to be cleaned?—They send their cotton to me. They pay me so much for a given weight, for "ginning," as it is called.

8348. Then you use it as a threshing machine is used in this country; you let it out, in fact?—Yes; I have a large establishment there. I have machinery which, with the employment of 30 hands, does the work of about 3,000 natives.

8349. Do you think that the employment of English capital in giving the natives the advantage of this and other improvements might be advantageously extended?—Undoubtedly the establishment of Europeans in the districts is greatly to the advantage of native cultivators.

8350. I mean in accordance with the instance you have given in giving the advantage of improved machinery?—Yes, in that respect.

8351. Is that your case?—Yes; and in purchasing, the ryot has a much better chance in dealing with Europeans than he has in dealing with the natives.

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8352. Do you think he has more reliance upon them?—Yes; and he gets a better price from the Europeans than he does from the natives.

8353. How many European settlers are there besides yourself in that part of the country?—None.

8354. Do you find that your intercourse with the natives goes on in a satisfactory manner?—At first I found what many persons would have considered insuperable difficulties to contend with, but ultimately I surmounted them, and since then my proceedings with the natives have been on a very satisfactory footing.

8355. Do the natives appreciate the benefit which you confer upon the country?—Yes; I believe that, if I wanted to purchase kuppas or cotton, they would give me the preference over any native dealer.

8356. May we assume that the condition of the natives is improved by the introduction of your capital into that part of the country, so far as its influence extends?—The natives themselves have made a calculation of the difference between the price which they have obtained for their crops on account of my competition and the price they would have obtained if I had not been there, and it has amounted to two or three lacs of rupees per annum.

8357. The increase?—Yes, which is a clear gain to the ryots.

8358. That advantage they clearly understand?—Yes.

8359. And appreciate?—Yes.

8360. Are they tolerably quiet in that part of the country?—They are very quiet and very well contented indeed in all respects, inasmuch as their crops have been amply remunerative, and they have not been oppressed or molested by anybody.

8361. Is there much destitution in that part of the country among the people?—No; I do not think there is any real destitution.

8362. Mr. *Mangles*.] And the land assessment; is that satisfactory to the people?—That is quite satisfactory to the people; I am speaking of the land assessment of the Broach district.

8363. *Chairman*.] Is that the new assessment?—It is not under the survey, but the assessment was altered about 10 or 12 years ago by the then collector. It was reduced; the reduction was at once acceded to by the Government, and since that time the ryots have been perfectly satisfied.

8364. Mr. *Willoughby*.] Are you alluding now to the time of Mr. Davies?—Yes.

8365. *Chairman*.] Is it settled for a fixed term of years?—No, but they feel perfectly satisfied that the Government never will interfere with them.

8366. Then is it fixed from year to year?—It has been assessed according to the quality of the land; that has been ascertained, and the assessment is regulated every year accordingly.

8367. Does the assessment vary?—It varies according to the quality of the land, but it is fixed for a given quality of land.

8368. It varies *quoad* the land, but it is fixed in its amount?—There are as many rates of assessment as there are qualities of land.

8369. But the amount does not change?—No.

8370. Mr. *Mangles*.] It does not vary with the crop?—No.

8371. *Chairman*.] But I suppose they will introduce the more extended system described by Major Wingate?—I believe an assessment with a similar object has been commenced in Guzerat.

8372. Would the natives welcome the additional security which appears to be given by the new system?—They do not require any additional security.

8373. They feel so confident in the continuance of the present system?—They feel perfect confidence in the continuance of the present system.

8374-5. You probably would agree with the witnesses who have given evidence before the Committee, that the colonization generally, in the usual sense of the word, is not to be contemplated in India?—Yes, I agree with them.

8376. But using the term in a more restricted sense, to what extent do you think it is practicable?—It would depend upon the locality, and the requirements of the commerce of the country; there is no doubt that the commerce of the country would be very much increased by the establishment of Europeans in the interior.

8377. Do you think that in the parts in which you have been, a European could

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could reside for a term of years in a state of health?—I never enjoyed better health in my life than I did at Broach; indeed not so good.

8378. To what do you attribute your good health?—I attribute it to the climate principally.

8379. Is the climate good?—It has not a good reputation, but I believe it has unjustly acquired a bad reputation.

8380. Were you much in the air?—I was very much more exposed to the air than any other Europeans there.

8381. Do you think that that may have been the cause of your enjoying such good health?—I believe that early rising, a moderate amount of exercise, regular habits, and going to bed early, will secure a very fair amount of health in any part of Guzerat.

8382. Europeans therefore observing ordinary rules, and ordinary precautions, and possessing sufficiently good constitutions, could, in your opinion, reside there for a considerable portion of their lives with safety?—Yes.

8383. Have you ever had reason to complain, or to approve of the administration of justice in that part of the country?—I have had reason to complain of it, but not to any great extent, inasmuch as I have never had any litigious disputes since I have been there, of any consequence.

8384. Do you attribute that to your own caution, or to the excellence of the mode in which justice is administered in the courts?—I had not been there long before I saw that the best course I could pursue would be to avoid getting into the courts.

8385. Why?—Because I believe that the administration of justice in the Mofussil is calculated to shield rogues and thieves, rather than to secure justice.

8386. Why is it calculated to do that?—Because the forms of proceeding are so tedious, vexatious, and procrastinating, and the facilities of appeal are so great.

8387. You complain, if I understand you rightly, of delay in the administration of justice?—Yes; and I complain, though I do not know that I ought to complain myself, of the operation of the system; justice is administered in inferior courts by native judges, which is I think a great disadvantage to both natives and Europeans, and if it is admissible, I would mention an instance or two that have occurred to myself. One is this; a person in my employ, a European, was sued for the rent of his house by my landlord. The suit ought never to have been instituted, inasmuch as I was the tenant, and not the party sued. The suit was taken into the Sudder Ameen's Court, who at first said that he would decide it in favour of the plaintiff without hearing the case at all. The vakeel employed by the defendant came and told me of it, upon which I took the liberty of writing to the European judge, to inform him of the fact, when he directed the Sudder Ameen to receive testimony, and try the case properly; this, after a time, he did. The evidence for the defence was as clear and as strong as it was possible for evidence to be, while the plaintiff did not adduce a single particle of evidence of any kind. The Sudder Ameen gave the plaintiff's vakeel, in my presence, a severe wigging, for coming into court with such a slender case, and refused even to take all the testimony that was ready on the part of the defendant, on the ground that it was quite unnecessary. To my astonishment he afterwards gave judgment for the plaintiff.

8388. Mr. *Willoughby*.] Did you not appeal from that decision?—Yes, and got the decision reversed, of course.

8389. Who did you appeal to?—To the assistant judge.

8390. Not to the principal Sudder Ameen?—No; to the assistant judge.

8391. Mr. *Mangles*.] Was no notice taken of this conduct?—Not that I am aware of. I felt so uncontrollably indignant, that I addressed a note to the Sudder Ameen to inquire whether he had given such a decision, for which I was very near getting into a scrape.

8392. *Chairman*.] Was nothing done to the Sudder Ameen who had decided so unfairly?—Nothing that I know of.

8393. Mr. *Willoughby*.] Did you ever complain against him?—No, except that my letter was forwarded to the superior judge, who asked me to withdraw it.

8394. *Chairman*.] Who was the superior judge?—A European gentleman.

8395. Was the conduct of the Sudder Ameen brought before any authorities who were competent to correct him for his injustice?—No; I did not think it worth while to do so, as it was conduct that any other native judge would have been guilty of.

8396. Then you think that these malpractices are common among the native judges?—I believe it is next to impossible to obtain impartial justice in a native court.

8397. In the case you have alluded to, the injustice seems to have proceeded from the partiality of the judge; are any of the courts open to corruption?—I have no hesitation in saying deliberately that the native courts are scandalously corrupt.

8398. In the case you refer to the judge acted unjustly?—No doubt it was an unjust decision.

8399. Do you complain at all of the corruptness of the native courts; do you think they are open to bribery?—I have said they are corrupt generally; and with respect to bribery, I think that the native courts, from the native judges down to all persons connected with them, are as corrupt as it is possible to be.

8400. You say there were two cases in which you complained of the conduct of the judge; you have mentioned one of them; will you state, if you please, what the other was?—In the other case I did not complain so much of the conduct of the court as I did of the dilatory system of administering justice in civil suits. That was a case in which I had advanced money to a cotton dealer under a contract for cotton to be delivered at a future time, which contract specified that, in the case of a failure to fulfil the contract on his part, the money which I had advanced should be returned with interest, and that the difference, if any, between the then market value of the article and the value at the date of the contract should be paid to me. When the time arrived for the fulfilment of the contract, the price of cotton having gone up considerably in the meantime, he refused either to deliver me the cotton or to return me the advance which I had made him, and, after waiting some time, I sent for him; he came over to my office, and I asked him why he did not return me the money according to the agreement. He said he did not choose to do so. I said, "Is it because you are a poor man that you do not fulfil your contract?" "A poor man," said he, "I have more money in my house than would sink you to the bottom of the river and keep you there." "Then," I said, "why do you act so dishonest a part in respect of your contract?" "Why," said he, "all you can do is to go into the Sirkar Court, and I can keep you out of your money there for four or five years, and, in the meantime, you or I may be in a position not to want it;" and upon that view of the subject he acted. I had to sue him before I could get the money, and in about nine months, I think it was, I obtained a verdict in the native court; but what appeared very extraordinary to me was, that part of the evidence was taken some three or four months before the case was concluded. The Sudder Ameen would examine one witness to-day, as it were, and then postpone the case for a month, when he would examine another witness, and then again postpone the case at his pleasure, so that from the time the proceedings commenced until the decision was given, a lapse of several months occurred. The decision was given in my favour. The defendant appealed to the Superior Court. (I should mention that the Sudder Ameen gave a decision in my favour for the principal sum, but not for the interest.) The Superior Court affirmed the decision; but though the defendant was a man of wealth, I could not find any property to attach, and I had to wait a year or two, and then received just what he thought proper to give me, which was about 75 per cent. of the sum which I had advanced, without interest; that would be the course that I should have had to pursue had I had any number of suits. I have known many instances of transactions between natives themselves where money has been advanced and property pledged for its repayment, the repayment has been refused and the parties have gone into court, and, after very vexatious delays, have obtained a decision, but when they have gone to put the execution into effect, the property which had been pledged was corruptly proved to have belonged to another person, and the creditor got no redress, and I believe has not to this day. That is the course, unfortunately, which nearly all suits take.

8401. Mr. *Mangles.*] It was not the fault of the Court, was it, that you could not find any property?—No; but the delay which took place had given the parties ample time to divest themselves, nominally, of their property, and when that is the case, any number of witnesses can be procured to prove anything that is required.

8402. That arises from the corruption of the natives, does it not, and not from any fault in the courts?—No; but if there were a summary process, by which

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judgment and execution could be speedily obtained, property could be reached. The more respectable natives of the country complain very much indeed of the Company's system of administering justice. They avoid as much as they can going into court, and submit to great sacrifices to keep out of court.

8403. Is not that the case in every country?—It is, and ought to be the case in every country; but they do it, not because they have not justice on their side, but because they feel that the forms of procedure are so dilatory, and the result so uncertain on account of the delay and bribery, that they would rather lose a great portion of the sum at stake than go through the ordeal.

8404. Is it not the case in this country, for example, that men often submit to loss and injustice even rather than incur the expense and the uncertainty of law?—I should be disposed to do so myself; but if I went into court in this country, and had justice on my side, I think I should have a much better chance of obtaining my rights than I should in India.

8405. Mr. *Willoughby.*] What period intervened between the institution of your original suit, in the case to which you have referred, and your obtaining a decree from the court of appeal?—About two years altogether, I think.

8406. Are you certain of that?—I think it was about that time.

8407. *Chairman.*] If you had had a more summary process, do you think you could have obtained payment of your debt out of the property of the defendant?—I have no doubt I should have recovered my money without any trouble.

8406. Mr. *Willoughby.*] Do you think that a summary process would overcome the corruption which you say prevails?—It would to a very great extent.

8409. *Chairman.*] You seem to think that the delay which occurred in the case to which you have referred gave the defendant time to secrete his means of paying?—Yes.

8410. You are sure of that?—I have no doubt of it.

8411. Have you any reason to suppose that that delay was contrived by collusion with any one?—No; I do not think there was any collusion on the part of court in respect to delay. The court is unable to decide the case as soon as the suit is instituted, on account of the press of business, and I think that in the case I have just mentioned there were other cases which, in point of time, should have had priority over mine, but which were set aside in order to take mine up.

8412. Therefore, some cases were even more delayed than yours?—Yes.

8413. Mr. *Smith.*] In cases of debt, can you by law seize the person?—You can.

8414. Why did you not in your own case seize the person of your debtor when you knew that he had property?—I did not wish to proceed to extremities.

8415. *Chairman.*] You are of opinion, therefore, that European settlers in that part of the country are at a great disadvantage in civil cases?—Yes; and I think it would be greatly to the advantage both of Europeans and natives if all the Mofussil courts were presided over by Europeans.

8416. Would they be competent to understand the native language?—There are European moonsiffs and European Sudder Ameens.

8417. Then you must use them or some persons as interpreters, must you not?—Interpreters are very easily obtainable.

8418. Mr. *Willoughby.*] Trustworthy interpreters?—If they are European interpreters they are trustworthy.

8419. From what class would you select them?—The Mofussil judges might be selected from the uncovenanted Europeans, I think.

8420. I am speaking of the interpreters?—They would not require interpreters generally.

8421. *Chairman.*] Do you think that they being Europeans, would understand the native languages so well as to enable them to dispense with interpreters?—They would understand the language as well generally as the European judges of the superior courts do. All the civil officers in the Company's service, covenanted and uncovenanted, have to pass examinations in the native language.

8422. Your complaints have been hitherto directed against the administration of the civil law; how in your opinion is the criminal law administered?—The criminal law affects the natives only; they complain of it very much indeed, and heinous crimes are frequently suppressed, though the perpetrators are well known to every man in the village, in order to avoid the disagreeableness of attending the courts.

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8423. Are the crimes to which you refer crimes perpetrated by the ryots themselves?—By all the lower classes of natives.

8424. Do you mean that criminals escape because witnesses will not come forward?—Witnesses will not come forward if they can help it.

8425. Why?—The courts are situated frequently at great distances from the places at which the crimes have been committed. Witnesses are first examined by the police amildars, or other subordinate officers; then they are carried before the European magistrate, or the deputy-magistrate; they are detained perhaps days before that tribunal; the accused is then committed for trial, which will not take place perhaps until four or six months afterwards, and then the witnesses are again called upon to give testimony, and they are kept at the place of trial during the whole sitting of the court; they are taken away from their occupations at a time when their services are most required, and the technicalities of the Company's rules of criminal justice are such, that in a majority of cases, there is a greater chance of the escape of a prisoner, than there is of his conviction. In the interval which elapses between the time of the committal and the trial, all the friends of the prisoner are threatening every person who has to give evidence against him, and whether he escapes or not, they will manage to revenge themselves.

8426. Then criminal justice is defeated in two ways; first, in consequence of the trouble it gives witnesses to come forward; and secondly, from the fear of consequences?—Yes.

8427. You complain in criminal, as in civil cases, of the tardiness of justice?—Yes.

8428. And you think that a more summary system of justice is required both in criminal and civil cases?—Yes.

8429. Mr. *Willoughby*.] Do not witnesses receive remuneration according to a scale fixed by Government?—Yes; but that remuneration is totally inadequate to compensate persons who are engaged in agriculture for their absence from their homes at a time when their services are imperatively required for their crops.

8430. That would depend on the season of the year when they were summoned, would it not?—It generally happens either at the time of sowing, or in harvest time; that evil is more extensively felt in large districts.

8431. *Chairman*.] Does bribery prevail in criminal in the same way that you have described it to prevail in civil cases?—Yes; bribery is just as rife in the one court as it is in the other.

8432. Mr. *Willoughby*.] Do you mean bribery of witnesses?—Yes, and of the subordinate officers of the court also.

8433. *Chairman*.] Does bribery prevail not only with the witnesses, but with the members of courts of justice?—With the native subordinates of the court.

8434. In criminal, as in civil cases?—In criminal, as in civil cases.

8435. Mr. *Willoughby*.] Do you apply that to the European judges?—No; of course it does not prevail with them.

8436. Did you ever hear any suspicion of it?—No, never; but there is no doubt that European judges have been tempted by some very high people there when they have had cases in court.

8437. Did you ever hold a situation as a judge?—No, but as a witness I have been asked for my interference or intercedence. The uncle of the Guikawär of Baroda once offered me a bribe; it was in a case of adoption; a child had died a minor, and another child was substituted in its place. As I had seen the real child, the parties who had substituted another attempted to bribe me to say that the substituted child was the real one.

8438. *Chairman*.] The idea of the potency of bribery is very prevalent among the natives of India, is it not?—Yes; the natives never think of prosecuting any case, however much justice may be on their side, without employing bribery and falsehood. To show the extent to which falsehood is practised in the native courts, I may mention that on one occasion I was interested in a case of a very trifling nature, in which I had to employ a Vakeel or native lawyer. I told him the facts of the case, and requested him to prepare it accordingly, which he did, and he brought it for my signature; before I signed it he read it over, and I found that there was not a single word of truth in the whole case that he had drawn up; I asked him how it was that he should have left out the truth entirely, he said, "Sir, we never think of stating the truth in our pleadings, and if you persist in doing so, you will never gain a case in our courts; our practice universally is to tell the most plausible lies we can possibly invent, and then to let the other side beat us at it if they can.

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8439. Mr. *Mangles.*] Is it not very difficult then to administer justice at all?—Yes, particularly under the Company's forms of proceeding.

8440. *Chairman.*] Where there is successful bribery such as you have described, there must be also frequent perjury, I presume?—They think nothing of perjury, they think it a merit rather than otherwise if they can gain an object by it.

8441. Mr. *Villiers.*] Do you apply that observation to the natives of India generally?—Yes, I apply it to the natives of India in the districts with which I am acquainted unhesitatingly, from common report, and from the general history of the natives. I have no hesitation in applying it also to the natives generally, they consider it a merit rather than a disgrace to tell a lie, if it will serve their purpose better than the truth.

8442. Mr. *Willoughby.*] If a man is found out in telling a lie, however barefaced, he is not shunned by his friends or acquaintances?—So far from being considered a disgrace, it is held up by their caste as a meritorious act to tell a falsehood in order to screen their caste folk.

8443. You do not mean to say that there are not many honourable exceptions, do you?—No, there may be honourable exceptions.

8444. For instance, you would not apply your observation to the higher classes of the people of Bombay, with whom you, of course, are acquainted?—There is no rule without exceptions, but I think that the exceptions in this case are as few as the exceptions are to any rule.

8445. Do you apply the general opinion you have expressed to the higher and better educated classes of the inhabitants of Bombay who mix in European society?—I apply it to the common people generally; but if it were thought necessary, I do not think that even the highest class of natives would hesitate to tell a falsehood.

8446. Mr. *Mangles.*] How could you carry on your business at all with people in such a state as you describe; how could you make any bargain, or buy anything of them, or sell anything to them, if they are so bad and corrupt as you describe them to be?—When I first went to India I had a piece of advice given to me which I found to be invaluable; it was given to me by a respectable and well educated native. He said to me, "Sahib, you have come here to do business with the natives; if you will allow me, I would advise you never to trust a native out of your sight. If you do not do so you will succeed, but if you do your end will be defeated; it is the custom with us never to trust each other." He was one of the most respectable natives in the place. He also said, "If we give a man a bag of money we count it to him, if we tell him to take it into the next room we count it from him; we never trust him further than that; we never trust each other in our dealings." And I have found by experience that that was the best advice I ever received in my life, and I have acted upon it.

8447. *Chairman.*] What is your opinion of the native judges generally?—There may be exceptions; but the native judges generally are, in my opinion, unfit for the administration of justice impartially, and are unfit to preside in courts where it is intended that justice shall be administered.

8448. If I understand you rightly, you say they have no idea of justice?—Yes, that is my opinion.

8449. You seem to agree with other witnesses who have gone before you, in thinking that a very desirable remedy would be the infusion of a certain number of European judges into these local courts?—Yes; in my opinion it would tend vastly to the benefit of all classes, both Europeans and natives, if all the Mofussil courts were presided over by European judges. In the district in which I resided we had one European moonsiff; I did not know him personally, though he was there for some time; but I know his character from the natives, and I know that he was more respected on account of that European integrity which he took upon the Bench with him than any native, or than all the natives put together, who had ever presided in a native court.

8450. Mr. *Villiers.*] Do they respect those qualities in other people which they do not possess themselves?—They respect them particularly in judges, or persons who have to decide between them and their neighbours.

8451. *Chairman.*] They feel, you think, the good effects of the impartial administration of justice?—Yes.

8452. And though they might not appreciate them morally, they would be able to appreciate them merely with reference to their own interest?—Yes; where their

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their interest is concerned they feel they can get justice from a European without bribery, whereas they cannot obtain it from a native with it.

8453. Mr. *Mangles.*] How, in your opinion, should the natives be employed if they are put into offices of trust?—As far as my experience goes, I think it would be decidedly to the interest of the country if a native were never admitted to the head of an establishment; natives make very good subordinate officers when they are well looked after, but they are utterly unfit, as a class, whether educated or uneducated, to be at the head of any department; that is my decided opinion.

8454. *Chairman.*] Then are you of opinion that in the transactions of commerce, as in the administration of justice, an infusion of European superintendence would be a benefit to the natives themselves, as well as to any European residents who might be settled there?—As far as the heads of departments are concerned, however unimportant, in my opinion European superintendence would be a decided advantage; but I believe that natives can be employed in subordinate situations to greater advantage than Europeans can.

8455. Mr. *Willoughby.*] The question put to you had reference to superintendence in commercial transactions?—I did not so understand it.

8456. *Chairman.*] Do you think that a greater infusion of Europeans in higher places, whether in commercial or manufacturing pursuits, would be an advantage? —I would undoubtedly place a European at the head of every commercial establishment; but except in places involving responsibility, I would prefer a native. I have never in my own business trusted a native to do anything for me by which he could take advantage of his position; that is, I have never allowed him to transact any business for me in the transaction of which he could take advantage of me; I have either attended to everything of that kind myself, or else I have employed Europeans to do it.

8457. Do you think that an infusion of European superintendence generally would by degrees have a beneficial effect on the character of the natives, as well as on the interests of the European employers themselves?—Yes; I think it would.

8458. Do you think that that would be one mode of inculcating better principles into the minds of the natives of India?—Yes; if you have good Europeans the natives will respect them, and will themselves be improved by their example.

8459. Do you approve, from what you have seen, of the conduct of the members of the uncovenanted service?—Yes.

8460. Mr. *Willoughby.*] Are not many of those natives?—I would except the natives; my experience of the uncovenanted native officers at the head of establishments is decidedly unfavourable, either as judges or as deputy collectors and magistrates; even the best educated natives are as unfit for such high and responsible offices as those who are not educated at all.

8461. *Chairman.*] Then education in that instance, such as it is, does not seem to have produced any good moral result?—None whatever, as far as efficiency in the administration of the duties of their office goes. On the contrary, I think that it impairs their efficiency as officers.

8462. Then another species of education must be resorted to in order really to improve them, if education will improve them at all?—The native system of education is well calculated to fit men for business transactions; but instruction in English arts and sciences, or in general literature, unless for particular purposes, is of no advantage.

8463. You think, do you not, that their moral character must be elevated by education if any good result is to be obtained?—Yes.

8464. Are the Government and local authorities, in your opinion, well disposed or otherwise to European settlers in that part of the country in which you have been?—As far as my experience goes they are undoubtedly well disposed towards them.

8465. I infer from your evidence that you do not think the cultivation of the soil could be advantageously engaged in by Europeans?—No; not in Western India.

8466. You think that the proper position for a European to take is one of a superintending character in this as in other cases?—Yes.

8467. What is the relative value of European and native labour in the part of India in which you have been?—I think that in some respects there is an advan-

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tage in the price of native labour; in other respects European labour, if it could be made available, would be the cheapest. For instance, I am quite satisfied that if mechanical labour by Europeans could be introduced, it would be cheaper, and more beneficial and satisfactory than native labour. I believe that in India the value of labour bears as great a proportion to the labour itself, as it does in this country.

8468. What is the character of the police in the part of the country in which you have been?—The police of Guzerat are considered, I believe, superior to the police in any other portion of India; at least, I have heard those who are conversant with the subject say so.

8469. What in your opinion is the cause of that superiority?—They are better and more efficient men, and I fancy that on the average they are rather less corrupt than they are in many other parts of India.

8470. Have they been selected, do you think, with greater care?—The class of people from which they are selected is a superior one, I fancy.

8471. Who have the credit of that selection?—The superintendents of the police now, but up to within the last few years the collectors of the district had.

8472. Mr. *Willoughby*.] A change took place in 1849 or 1850?—Yes.

8473. *Chairman*.] Does the system resemble that which is adopted in the North Western Provinces, where you have a superior sort of superintendent?—I believe that the system adopted in Scinde has been introduced into the Bombay Presidency.

8474. Mr. *Willoughby*.] Is not that partly grafted on the native system of police; that is, there are hereditary police, who are useful in tracking thieves?—Yes, the puggies.

8475. They are responsible for any harm that can befall travellers, are they not?—There are members of the police who are called puggies, whose duty it is to track thieves and murderers, but I am not aware of the existence of such responsibility.

8476. And the grassias are obliged to assist, are they not?—They are considered as being obliged to assist; but I believe they are very seldom called on to do so.

8477. *Chairman*.] In this, as in other cases, the natives best perform the subordinate parts of the duty, if I understand you?—Yes.

8478. But in this, as in other cases, you think that the superior position is best filled by Europeans?—The whole character and efficiency of the police in any district depend entirely upon the character and efficiency of the European superintendent.

8479. Then you approve of the general principle of an infusion of the European element into this as into other departments?—That element is already infused generally into the police.

8480. And you think with highly beneficial results, do you?—With highly beneficial results when the superintendent is himself an efficient and energetic man; otherwise I believe that the police was better administered by the Collectors of the districts before the present system was introduced.

8481. But you think, *cæteris paribus*, that a European superintendent is likely to be more efficient than a native superintendent?—I should not consider it desirable under any circumstances to employ a native as a superintendent.

8482. Do you think that the interests of European settlers are likely to be promoted by the transfer of the Government of the country to the Crown?—That would depend upon the character of the transfer. I believe it would be beneficial to the interests of settlers in India if the present system of government were continued there.

8483. What do you mean by the present system of government?—The system which has been pursued by the East India Company, with such alterations as have been suggested. But if India is to be governed on the principles of the colonies, I should consider that it would be alike unsafe for life and property in India before the lapse of very many years.

8484. What would be unsafe?—Life and property.

8485. Why?—I do not think that the colonial system of government is at all adapted to the circumstances of India; I think it is quite impossible for anybody to attempt to administer the affairs of that country who has not been educated, as it were in the country, as an administrator of affairs.

8486. Then you think that a local administration is very desirable?—Yes; I think

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I think the political administration of the affairs of India is wonderfully well adapted to the circumstances of the country and the character of the people.

8487. Are you of opinion that a greater infusion of local knowledge into the Government of India would be desirable, or do you think the present Government is sufficiently acquainted with the local wants of different parts of India?—The present system would be better adapted to the local wants of different parts of the country than any other system could possibly be until it had acquired the experience possessed by the present authorities.

8488. Then you do not approve of a greater local distribution of Government than there is at present?—I scarcely understand you.

8489. Do you think the present system is too centralising?—I believe it would be advantageous if the different presidencies were independent of the general Government.

8490. Do you think so because they would thus have a greater knowledge of the local wants of the several presidencies?—Yes.

8491. Then you think that in the present system of government there is not a sufficient knowledge of the wants of the different distant localities?—I do not think there is so much a want of knowledge as a want of power to apply that knowledge with advantage, on the part of the local authorities.

8492. Mr. *Smith.*] Is there, in your opinion, a large field for European settlement in Guzerat?—There is no field for European settlement, except for purposes similar to those to which I have already referred.

8493. Are there any other persons engaged in the same trade as that which you have yourself followed?—There are no other Europeans engaged in a business similar to my own; and with reference to that, perhaps the Committee will allow me so say that when the question about cotton cleaning by the improved processes was put to me in an earlier part of my examination, I omitted to state that there is a native establishment there on the principle of my own, which has been set up in imitation of mine.

8494. Is that a native establishment for the purpose of cleaning the cotton?—For the purpose of purchasing the kuppas from the ryots, as I do myself, and of cleaning and preparing it for market.

8495. In their establishment do they use steam power?—Yes.

8496. To what extent?—Very nearly to the same extent as my own.

8497. What quantity of clean cotton can you turn out per day?—About 25,000 lbs. weight when in full work.

8498. Do you pack the cotton upon your own premises?—Yes; I pack it with presses similar to those which are in use on the plantations in America, but not for exportation; I pack it for shipment to Bombay, to be repacked there for shipment to England.

8499. Mr. *Willoughby.*] Your cotton is screwed in Bombay, I suppose?—I pack it in large bales, with presses similar to those which are used on the plantations in America; in those bales the cotton is shipped to Bombay, and there it is rescrewed, either on my own account, if I ship it to England, or on account of the purchaser who ships it.

8500. Mr. *J. B. Smith.*] Is it screwed so hard as to prevent any frauds?—Yes; bales packed in my presses are screwed much harder than bales packed in the native presses, and the character of the cotton is so entirely different from that prepared by the native process, that frauds on the passage, which frequently occur with respect to the native cleaned cotton, are impracticable in the case of my cotton without a certainty of discovery.

8501. Do you put your own mark upon all the cotton that is cleaned by you?—Yes.

8502. So that that mark is known in every foreign market?—Yes; in addition to the cotton I purchase from the ryots, I have always been a large purchaser of native cleaned cotton; I have sometimes purchased for shipment on my own account to England, native cleaned cotton, and sometimes I have purchased for merchants in Bombay, that is, I have executed orders for merchants in Bombay for cotton at a price previously agreed on, and that cotton I have purchased and delivered to them in Bombay; but in all cases my purchases have a distinguishing mark and have been shipped to England, whether by myself, or purchased under that mark, which I believe is generally known in the Liverpool market now.

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8503. The cotton you purchase from the natives is cleaned by the "churka," is it not?—Yes.

8504. But your own cotton is cleaned by the saw-gin?—The kuppas which I purchase from the ryots is a separate produce, and is cleaned by my saw-gins; that is called "ginned cotton," in contradistinction to the native cleaned cotton, of which I purchase large quantities in the bazaars.

8505. What is the difference in price in Bombay between your cotton cleaned by the saw-gin, and that purchased and cleaned by the churka?—The difference in price in Bombay used to be from about 10 to 12 rupees per candy; that would be from 8 to 12 per cent., according to the price which cotton bore in Bombay. There has always been that or a greater difference in the English market, but of late years on account of the difficulty which certain parties found in selling that description of cotton in Liverpool, I have not been able to obtain that difference in Bombay, and have therefore found it advantageous to ship it to England on my own account.

8506. What is about the yield per acre of cleaned cotton in Guzerat?—It depends altogether upon the quality of the land; it varies from five to forty dhurrees.

8507. How much is that in English weight?—Twenty dhurrees are 1,000 lbs.; a dhurree is 50 lbs. I am speaking of the seed cotton, and one-third of that would be clean cotton; it varies from 250 lbs. to 2,000 lbs. in extreme cases.

8508. Per acre?—Yes, according to the quality of the land; in the Dhej district near the sea shore, and under the influence of the salt air, the yield is exceedingly light, and gradually diminishes till you come to land which will not bear cotton.

8509. Of the seed cotton, how much clean cotton would be produced?—On an average, I should say about 30 to 31 per cent.; about 31 per cent. I think would be the average.

8510. The weight would be something like 60 lb. to 70 lb. per acre of cleaned cotton, would it not?—It would vary from 50 lb. to 600 lb., but the latter is a very extraordinary yield indeed; the average yield is about 200 lb. per acre I think.

8511. Of what?—Of clean cotton in a good season; it is impossible to ascertain exactly what is the yield of the district under the Company's rule, inasmuch as it is mixed up with that grown in the Baroda district, of which we have no statistics at all; but on questioning the ryots, which I have done frequently, I have ascertained from them that they get from 125 lbs. per beegar up to 1,000 lbs. per beegar, a beegar being half an acre. In Guzerat 100 beegars would be perhaps 104 or 105 acres; the kuppas vary from 3 dhurrees or 160 lbs., to 1,000 lbs. of seed cotton a beegar.

8512. About 30 per cent. of that is cleaned cotton, is it not?—Yes.

8513. Then it ranges from 100 lbs. to 600 lbs. an acre?—Yes, in very extraordinary yields: it would be about 200 lbs. an acre on the average.

8514. What quality of land is that which produced 1,000 lbs. weight per acre?—The black soil.

8515. Is it moist land?—In the wet season it is very moist; it has scarely any bottom to it.

8516. And is it to that condition of the soil that you attribute the large production?—Yes; and its being allowed to lie fallow.

1517. How much of this cotton which yields so largely is produced?—Not a very large quantity, except in some particular villages, where they have a better system of cultivation; where they regard the rotation of crops more than they do in other villages, and allow their land to lie fallow more generally than they do in other places. The ryots are of opinion that they gain, though they pay the rent every year, by allowing their land to lie fallow occasionally; but at the same time that they feel conscious they are gaining by allowing the land to lie fallow, they feel more satisfaction in seeing the crop on the ground, and consequently they cultivate it oftener than they ought to do.

8518. Mr. *Willoughby.*] What with?—Cotton.

8519. You say that cotton is grown once in three years?—Yes.

8520. In the intervening period what do they grow?—Wheat and other kinds of grain.

8521. Mr. *Smith.*] Is the quality of the cotton that produces so large a yield better than the other?—Much better.

8522. What

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8522. What is the difference in the value per pound?—No difference is made in the price, except the first picking of that kind of cotton is brought to market separately, when the cultivator obtains a little higher price for it.

8523. It is a longer staple, is it not?—Yes.

8524. And more silky?—Yes.

8525. It approaches more nearly, does it not, to the quality of the American cotton?—Yes.

8526. And for the same cause, that it is grown on a moist soil?—It is owing to its being grown on a fallowed soil, not on account of its being grown on different soil from the rest; of course the richness of the soil in different parts of the district varies; where cotton is grown on the richest soils, and on soil which has been allowed to lie fallow for one year, they have excellent cotton, but it is not grown in sufficient quantities to render it an object to separate it from the bulk of the crop.

8527. What is the present price of cotton?—By the last accounts the price was 150 to 156 rupees per candy.

8528. Per candy of seven hundred weight?—Yes.

8529. Is not that a high price?—That price has been obtained for more than a year now.

8530. At those prices is there anything else they could produce that would be equally profitable?—No, I should think not.

8531. And if those prices continue, do you not think the production of cotton will increase very considerably?—It cannot increase in those districts to advantage, because if they force it beyond the present ratio of production, they will impoverish the soil, inasmuch as they have to cultivate it two or three years in succession upon the same land, which would cause a dimunition in quantity and a deterioration in quality.

8532. There is not, you think, sufficient land to extend the cultivation in that district?—No; the cultivatable land, or rather the land that was in cultivation in the Broach district, consists of about 1,080,000 beegars, I believe, and in seasons of high prices, such as the present, I have known as much as 440,000 beegars to be planted, which was more than the ratio; but the average for five years of land under cotton has been about 320,000 beegars.

8533. Do you know anything of Khandeish?—Yes.

8534. Is not Khandeish capable of producing cotton also?—Yes.

8535. Is not the cotton grown in Khandeish of a superior quality?—No; it is inferior to the Broach cotton.

8536. But still it is a good quality of cotton, is it not?—It is among the most inferior cottons in India. The relative value of Indian cottons varies in the different districts; the Broach and Surat districts, which are the same thing, produce the best cotton in Western India, except little Tinnevally perhaps.

8537. Mr. *Willoughby*.] Does not the saw-gin cotton of Dharwar bear a higher price?—That is American seed cotton; I am speaking of the indigenous cotton of the country; the Broach and Surat districts produce the best indigenous cotton in India; but although the Broach and Surat districts produce generally the best cotton, there are seasons in which the cotton of those districts is inferior in market value to the cotton of some of the other districts, though, as a general rule, the reverse is the case; for instance, it may happen that they have a very bad season in Guzerat, when they have a very good season in Khandeish or the Southern Mahratta country.

8538. You mean in consequence of the want of rain?—From various causes; they may have rain enough, but it may not be distributed over a sufficient length of time to bring the crop effectually to maturity; in those cases the qualities of the cotton is so much affected as to change its market value.

8539. Have you any idea of the difference in value between the best Broach cotton and the American upland cotton?—The best Broach cotton is intrinsically of the same value, though it does not always realise the same price as the middling uplands.

8540. Have you had an opportunity of seeing any cotton that has been cultivated by means of irrigation?—No, except by way of experiment.

8541. Was not the quality of that cotton which you did see very much improved?—As far as I have had any experience and knowledge of the subject, irrigation has been unsuccessfully applied to the cultivation of cotton.

8542. Sir

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8542. Sir *Erskine Perry.*] The produce has not met the expenses?—The experiment has resulted in failure.

8543. There has been increased produce, has there not; but the expenses have also been greater?—I repeat, the experiment has failed.

8544. Mr. *Villiers.*] You are only speaking of Guzerat as being within your own personal experience?—Having been exclusively engaged in the cotton trade, I have some little knowledge of all the cotton districts in Western India.

8545. But you have an establishment in Guzerat, have you not?—Yes.

8546. You have referred to a native establishment that is also there?—Yes.

8547. Is that establishment entirely superintended by natives?—No; it is superintended by an Englishman who was formerly in my employ.

8548. Why do you distinguish it as a native establishment?—Its proprietors are natives.

8549. Are we to understand that the cotton they turn out is of inferior quality?—The cotton they turn out is entirely similar to the cotton I turn out, or at least, it ought to be, inasmuch as the machinery is precisely similar.

8550. Do the proprietors export cotton to Europe, or do they merely send it to Bombay?—They generally sell it in Bombay, I believe; but they have shipped cotton to England through Bombay houses.

8551. But it is pretty much the same business as that which you have conducted yourself, is it not?—To that extent it is.

8552. Have you any remark to make upon the manner in which they conduct their business? Would you say that they are not esteemed as much as any European who is a proprietor of a similar concern?—I do not wish to make any remarks about other establishments of a similar kind to my own; but notwithstanding they are in opposition to me, they have not affected my interests in any way that I am aware of, inasmuch as the natives pass by their establishment to bring their kuppas to me.

8553. Mr. *Willoughby.*] There is room for both of you, in fact?—Yes.

8554. Sir *Erskine Perry.*] What you mean is, that the natives rather prefer dealing with you, is it not?—So they say themselves; if a native dealer wants kuppas cleaned and my gins are at liberty, he gives me the preference.

8555. Mr. *Villiers.*] But the productions of the native merchants are not esteemed less than yours in the market of Bombay, are they; there is no fraud suspected, is there, in the making up of their goods?—In their gin cotton I have heard of none; they could not very well perpetrate a fraud in gin cotton, as it would be so palpable that it would be inevitably detected.

8556. But you do not know of any of that want of integrity in the commercial houses that you spoke of as generally prevailing in the case of the natives?—From the character of the native at the head of the establishment to which I have referred, I have no hesitation in saying that, if he could get a chance of perpetrating a fraud, he is the very man to do it, for he is notoriously the greatest native rogue in the district.

8557. But you have had no experience or proof yourself of his being a rogue, have you?—I have had no experience of it, and I never heard of any complaints of his gin cotton.

8558. What are the frauds on the passage that are practised in the case of native cotton?—The frauds on the passage are committed between Broach and Bombay. You allude to the frauds on board the boats, I presume?

8559. Yes; what are those frauds?—The lascars tamper with the cotton by pilfering from the bales, and by putting water in to make up the weight.

8560. Do you mean they are paid to do so?—They do so for their own plunder.

8561. They extract the cotton?—Yes.

8562. But that is a fraud that any people might be exposed to who send their goods by vessels having lascars on board?—The native cotton is so loosely packed, that a large quantity might be extracted from a bale without leaving any visible hole.

8563. However those are frauds of a kind such as you have heard practised in other countries besides India, I dare say?—I believe that frauds are practised in all countries; but I do not think they are so general elsewhere as they are in India, where fraud is the rule and fair dealing the exception.

8564. If I understand you rightly, you say you are satisfied with the system of Government that prevails in that Presidency; that it is admirably suited to the circumstances

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circumstances of the country, and that any change would, in your opinion, be attended with injury and danger to those who are settled there already ?—I think so.

8565. Will you tell us shortly what you mean by the system of Government there as distinguished from what you have called, I think, the Colonial system; what are the leading principles of that system of government which you say is satisfactory as contrasted with that which you have represented ?—I believe that the present system of government is administered more with a view to the wants and circumstances of the country than it would be under any change that might take place. I am speaking, of course, of the system as administered by the East India Company. I have no more partiality for the East India Company than I have for any other company, but I believe that the servants of the East India Company are a set of trained and educated men, men trained especially for the administration of that country; their rules of administration have grown up with the growth of the Company's rule, and they have been adapted from time to time to the wants of the country in a much greater degree than any other rules would be that could be adopted by parties having less experience.

8566. All that is very general, and does not convey any very definite idea to the mind; I understood you to say that, particularly with reference to the country with which you are acquainted, the administration of justice is extremely defective ?—I believe that if the whole of the country were administered upon the principle adopted in the non-regulation districts it would be much better.

8567. Did you, or did you not, say that the administration of justice was very defective ?—Yes.

8568. The police, you said, were extremely bad in Guzerat ?—I think I said that the police were better, or were allowed to be better in that district than in almost any other district in India.

8569. Does not your general remark as to the untrustworthiness and fraudulent disposition of the natives, apply to the police ?—Undoubtedly, when they are left to themselves; I have known a period in which the Broach police, of which I speak more particularly, has been as efficient as any police need be, owing entirely, however, to the superior vigilance and efficiency of the superintendent of police.

8570. Was he a native ?—He was one of the Company's military officers.

8571. But was he a native ?—He was a European officer; all the police in every district are superintended either by a covenanted or uncovenanted European officer; generally by a military officer.

8572. Are you alluding now to Guzerat ?—Yes.

8573. You are not talking of other parts of the Presidency ?—No.

8574. Who organised that police ?—It was organised by Captain Hodgson.

8575. Of the Company's service ?—Yes; he was the superintendent who brought it into such a state of efficiency.

8576. Is it part of the system of the Company's Government to employ natives ?—Yes; to a much greater extent, I think, than is conducive to the interests of the country, or of individuals.

8577. They are so untrustworthy, you think, that nobody feels secure of getting justice, or of having their contracts fulfilled ?—Wherever confidence and trust are necessary I never would employ a native.

8578. Mr. *Willoughby.*] If you could help it ?—If I could help it.

8579. Mr. *Villiers.*] Is that what you call adapting the Government to the wants and circumstances of the country, when you say they are employing natives to a great extent, and that you have no confidence in natives ?—The employment of natives I have always considered as injurious to the interests of the mass of the natives and the interests of Government; it has only been a very recent measure, the employment of natives in important and responsible situations.

8580. It is rather a leading feature in the present system, is it not ?—It is becoming a leading feature, unfortunately; for instance, in the case of an officer and deputy magistrate of the district who has criminal jurisdiction to a certain extent, and whose decision up to a certain amount is final I have known instances of his being abused by the common coolies who have appeared before him, in a way that was calculated to bring him and his office into contempt, without his suppressing it or taking any notice of it whatever; and in cases of conviction upon the clearest evidence of offences for which under the regulation he should have inflicted heavy punishments, he has adjudged one day's imprisonment, or a fine of one rupee.

8581. Do you ascribe that to the circumstance of his being a native ?—To the circumstance

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circumstance of his being an incompetent person for the position which he occupies.

8582. That is, that in his views of the proper measure of punishment that ought to be awarded, he differed from you?—I think he differed from justice, and I am not alone in my opinion. I believe that my opinion was shared in by every person in the district, both European and native from the highest to the lowest.

8583. He was an instance of an incompetent functionary?—Yes; and I have heard many complaints of the incompetency of the officers similarly employed.

8584. Mr. *Willoughby*.] Of what caste was that man?—He was a Parsee, the most respectable and altogether the most superior caste in India.

8585. Mr. *Villiers*.] Does it often happen that incompetent persons are put into these situations?—The natives are very clever frequently, but in this instance the officer was totally unfit for the high situation he was placed in, though a very well educated man.

8586. My question was, does it often happen that incompetent persons are put into these situations?—It often happens that either incompetent or corrupt persons are found in those situations.

8587. By whom are they appointed?—The Government; with the best intentions in the world, I suppose.

8588. Are they so incompetent or corrupt as to make people feel insecure as to their property?—As far as my experience goes they are more unpopular with the native than they are with the European portion of the population, because there is a desire among the European community to see natives put forward. The Europeans wish them to have a fair chance in that respect, but the natives do not feel the same confidence in them as they do in Europeans, even of inferior grade.

8589. But Europeans who want to put them forward do not feel insecure under their rule, I suppose, and cannot share in your opinion of their incompetency and corruption?—Yes, many have shared my wish to see them put forward, and in my disappointment at the results of their having been put forward.

8590. Do you state it to be a matter of notoriety that there is disappointment felt in regard to the manner in which the natives conduct themselves?—Yes; that they have not realised the expectations formed of them at the time when it was decided to appoint them.

8591. Mr. *Smith*.] That is not so much on account of their fitness, is it, as on account of their want of morality?—You may put it in almost every sense. I say the natives have not the same confidence in native officers that they have in Europeans; they much prefer that there should be a European at the head of every establishment, however inferior that establishment may be.

8592. Mr. *Villiers*.] I understand you to say that you have not suffered at all from trusting to the natives yourself?—No, for the reasons I have before given.

8593. You speak from what you have heard and not from what you have experienced then?—I am not speaking from any sense of absolute suffering on my own part; I am only, I believe, uttering the universal sentiment in the district in which I have known native officers employed.

8594. You have no reason to complain of the natives you have trusted or who have been under you?—No; I have had a great many obstacles to contend with, and have suffered a great deal at their hands, but I have overcome them. There are some very excellent openings for Europeans in India, but I am apprehensive that not one in ten will be able to overcome the difficulties they will have to encounter in establishing themselves. There has been an attempt made by one of the principal European houses in Bombay to establish a concern similar to my own in a district where all the circumstances were vastly more favourable for success than they were in my case, but that concern, I am sorry to say, has been obliged to abandon the enterprise at great loss.

8595. Have you any connexion now with India?—Yes, my establishment is still there. I have not withdrawn any of my interests from that Presidency.

8596. But you would not recommend any other persons to go and establish similar concerns to your own there, owing to the difficulties with which they would have to contend?—I would not discourage anybody from doing it. I only mention the difficulties with which they would have to contend from the knowledge of what I have gone through myself. For instance, the first season that

I went to Broach I was utterly unacquainted with the language and with the people, I received an order for a thousand bales of cotton from a house in Bombay, which order I accepted; that is to say, they offered me a certain price for a thousand bales of cotton to be delivered in Bombay. I found the state of the market was such as to enable me to accept the order, and I did so. I purchased the cotton, and sent it forward in boats as fast as I could purchase it, and heard nothing more from the parties to whom I consigned it until I received a letter containing a report of a survey, and a protest declining to receive the cotton.

8597. Was that a European firm?—Yes; it was one of the first houses in Bombay; they were total strangers to me, but through the recommendation of a friend of mine in Bombay they sent to me for the cotton, and said, "If you can lay us down a thousand bales at such a price, we will take it." I found that the state of the market just enabled me to do so, and I did it; two of the leading members of the chamber of commerce, one of them a friend of mine, had been called on to survey this cotton after it arrived in Bombay, and their report was to the effect that it was dirty, leafy, and of a bad colour, and altogether an inferior lot of cotton, such as they would not buy in the Bombay market. I immediately, upon the receipt of that certificate, went to Bombay and had the cotton re-examined, and it turned out to be the best cotton there was in Bombay at that time; the fact was, that a most cunning fraud had been perpetrated both upon the parties to whom I consigned the cotton, and the gentlemen who had examined it; they had been cheated before their eyes. I mention this in illustration of the difficulties European settlers have to contend with in the country.

8598. Do you wish us to believe that it is peculiar to Bombay, that a gentleman should make an unfortunate contract with persons of whom he knows nothing, to whom he undertakes to send goods, and that when he sends them under his contract they should not be accepted, because some person is knavish enough to interfere and say that they are bad, when they are good; you do not wish the Committee to believe that that is peculiar to Bombay, do you?—All I wish to convey is, that that is the kind of chicanery which persons who want to establish themselves in India have to contend against.

8599. Did you happen to see the "Times" newspaper yesterday?—Yes.

8600. Did you see a statement as to a person who had contracted to supply goods to one of the clothing departments, but who could not get any of the goods supplied under his contract, though complete and perfect, accepted, because he had not paid the requisite fee to the person who had to inspect them?—I did not; but I do not see any analogy between the two cases.

8601. In order to illustrate your opinion of the dishonesty of the natives in Bombay, and the difficulties that people would have to contend with who went out to settle in India, you describe to us an ordinary case of fraud?—I think it is an extraordinary case of fraud; the fraud I refer to was perpetrated by native brokers in Bombay not on me only, but on the parties to whom I sold the cotton; the object of the fraud was to prevent my success as a European merchant in the country, and it was perpetrated by natives whose business it was if I did not intervene, to purchase cotton for the house to whom I sold it.

8602. You fix on a motive which perhaps it would be rather difficult to prove; they may have wished to favour some other firm; but if I understand you, the person with whom you contracted was a European?—Yes.

8603. And there must have been gross negligence on the part of that European house if they rejected your good cotton?—They objected to the cotton on the report of their own native servants.

8604. Sir *Erskine Perry*.] Is not that to which you have referred a sort of fraud that is likely to be perpetrated in any country where foreign agency is so much resorted to as it is in India?—No, I never heard so.

8605. In this country, if Greeks were doing business with Europeans, and they had to call in the assistance of Greek agents, do you not think that those Greek agents might lend themselves as much to frauds as the agents you speak of in India?—I never heard of any instances of such atrocious frauds.

8606. Mr. *Villiers*.] You have experienced no difficulty in acquiring land in India, have you?—I never acquired an acre of land there.

8607. Have you ever desired to do so?—No.

8608. Do you know whether there is any difficulty in it?—None; but I consider

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sider it very undesirable for a European to acquire an acre of land there, unless he wants to build a house upon it.

8609. You must have land to put your machinery on, must you not?—Yes; but that is not the sort of acquisition of land to which I have been referring.

8610. Do you know anything about the difficulty of getting good title to land?—I believe that if I wanted any unoccupied land in the district I could have it on the most favourable terms, and for any length of time I wished it.

8611. Do you allude to Guzerat?—Yes.

8612. You have said that, in your opinion, it would excite considerable alarm among Europeans disposed to settle in India, if the system of Government that has obtained in India were to be changed to the colonial system, and that if the power were to be transferred from the Company to the Crown, it would be highly injurious to the interests of the country; will you tell us what your idea is of that colonial system which you imagine is to be substituted for the present system of government?—That is better known to you than to me. I do not wish to express any opinion on the merits of the colonial system; I only say that it is not adapted to the circumstances of India.

8613. Will you have the goodness shortly to state to the Committee the leading principles of the colonial system to which you object?—It is a system of self-government in a great measure.

8614. Do you allude to Ceylon?—Not particularly.

8615. That is a case in point, is it not?—Ceylon has always been a colonial government.

8616. Sir *Erskine Perry*.] But that is the case most analogous?—That is an analogous case; but the people of Ceylon are different from the people of India.

8617. Mr. *Villiers*.] They are Asiatics?—Yes, but Asiatics of a different character, and of less indomitable prejudices than the people of India.

8618. But looking to the system of government in Ceylon, do you think it ill adapted to the wants and circumstances of that island?—I do not think that the system of government pursued in Ceylon would answer for India.

8619. But is it ill adapted to the circumstances of the Asiatics occupying that island?—No, I do not think it is.

8620. Do you know of any place where there is more prosperity and more security, or where everything is better adapted to the wants and interests of the country than Ceylon at present?—The products of Ceylon are entirely under the control of European superintendents, which is not the case in India.

8621. But that, you say, is required in India?—Only for products suitable for exportation.

8622. But you say that European superintendence is desirable in every department of business in India?—Yes, I say it is desirable that a European should be at the head of every department in India, whether a Governmental department or any other.

8623. And that is what you say is the case now in Ceylon?—The system which obtains in Ceylon, if I understand it correctly, is similar to that which obtains on the indigo estates in Bengal, a system utterly unadapted to any other portion of India.

8624. As far as I understand you, they have in Ceylon that which you say is required in Bombay, namely, European superintendence, and a system of Government suited to the interests and feelings of the country?—In Ceylon I believe there is European superintendence over agricultural pursuits, but in India that is not the case.

8625. Sir *Erskine Perry*.] What is there in the Ceylon system that you think would make that system applicable to India?—Ceylon is a small island with comparatively very few aboriginal inhabitants; all the productive interests of that country are under the control of Europeans, therefore the European system of government would be far more applicable to the circumstances of that country than it would be to the circumstances of India.

8626. What is there objectionable in the Ceylon system of government, that you think would make it inapplicable to India?—It is a system similar to that of other colonial Governments, and therefore inapplicable to India.

8627. Mr. *Villiers*.] What are the leading features of our colonial system that make you apprehend it would not be suitable to India?—The Governor, the Secretary, and

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and all the officers are appointed by the Crown; they are sent out to Ceylon and all the other colonies without any experience or previous knowledge of the country, and are utterly unacquainted with the habits, customs, and manners of the people. In Ceylon, which is a small island with a comparatively few natives, there are but few difficulties to contend with. There is there a productive interest that is entirely under the control of European superintendents, as contrasted with the circumstances obtaining in India; and I apprehend that any person who has had any experience, or who has had a long residence in India, would say that such a system would be utterly inapplicable there, and, in my humble opinion, it would be eminently calculated to subvert the Government of the country.

8628. Do you know what the proportion is of the population that we may call native in Ceylon, as compared with Europeans?—I am not aware what the population to a square mile is in Ceylon.

8629. Have you the least doubt that all the labour is performed by the natives?—A great portion of the labour in Ceylon is performed by imported labour from the Malabar coast.

8630. You do not mean to say that there are European labourers?—There are no European labourers; if I am not mistaken, there is not one in Ceylon; the Cingalese are the only natives of Ceylon; they are a peculiar people, it is true, like the rest of the Asiatics, but there is a difference in their peculiarities from the inhabitants of India; they have been made available partially, but not wholly, for the purposes of cultivation in Ceylon. The planters of Ceylon have found it necessary to import very extensively labour from the Malabar coast, and at this moment there is a society organised by all the planters in Ceylon, for the purpose of extending the importation of Indian labour.

8631. However, you will admit that the natives of Ceylon are different in race, religion, and circumstances, from the Europeans, and that the country, which is a Crown colony, is perfectly well governed, under what you call the colonial system, and you do not deny that it is in a prosperous condition?—I admit that Ceylon is prosperous, though I have never been in Ceylon.

8632. Have you ever been in any of our colonies?—Yes.

8633. Which?—I have been in Canada, and in some of the West India Islands.

8634. Have you anything to complain of in the system of Government pursued there?—No; it is now admirably adapted to the circumstances of the country, but until the last few years it was the reverse.

8635. Your objection to the colonial system is, that we send out persons to govern our colonies without any regard to their fitness for the offices they fill, and who are wholly unsuited to the people they have to govern?—In many instances that has been the case.

8636. Sir *Erskine Perry*.] Is it consistent with your information, that judges and civilians are sent from this country to Ceylon, without special reference to their former training?—No, that is not my impression. In what I said, I had reference to the Colonies generally. I did not include the judicial officers in my answer.

8637. What officers do you embrace?—I include the civil officers of Government. What I wish to convey as my opinion is, that India, if governed by the system obtaining in Ceylon, would not be as prosperous as it now is; and I would further remark, with regard to a change of government for India, that if the colonial system should be introduced into India, I should be anxious to withdraw my property from that country as soon as I possibly could.

8638. Mr. *Villiers*.] I understood you to refer to Ceylon as an instance of the working of the colonial system?—No, I had not Ceylon in my mind when I gave my answer to the question put to me.

8639. You have condemned the colonial system generally; I have referred you to one colony containing Asiatics, and therefore a case in point in this matter: you say it is well governed, and that it is everything it ought to be; can you give us now an instance of a colony which is not well governed, and the system pursued in which you think ought not to be applied to India?—I should like to hear my former answers read, because I am not aware that they would bear the meaning you put upon them. I have not objected to the efficiency or appropriateness of the colonial system of government as applied to the colonies; my objection applied exclusively to the application of the colonial system to India.

2640. You are aware, are you not, that the colonies which are dependent on

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this country are governed under very different forms in various parts of the world?—Yes, they are to a greater or less degree self-governed.

8641. The forms are different?—Yes.

8642. And the circumstances are different?—Yes.

8643. Can you say that they are not adapted to the circumstances of those different colonies?—I have not said so; I have merely said that in my opinion the colonial system, in any of its forms, is not adapted to the circumstances of India.

8644. Do you know anything of the Mauritius?—I do not personally.

8645. You do not know whether that island is ill or well governed?—I do not.

8646. You do not know anything of the state of the Mauritius?—I do not.

8647. Whether it is prosperous or not, you do not know?—Not of my own knowledge.

8648. Did you go out originally in the service of the Company?—No; originally I went out, not to establish myself as a merchant, but for the purpose only of acquiring some local information. I was offered and accepted an appointment under Government in the district, and it was upon that spot that I established myself afterwards.

8649. Did you remain for some time in the service of the Company?—Yes.

8650. Mr. *Willoughby*.] What situation did you hold?—I superintended some experiments that were instituted by the Government.

8651. Sir *E. Perry*.] In the opinions you have expressed with regard to Ceylon, you do not speak, I think, from personal information?—I have never been in Ceylon; I have had relatives there.

8652. I gather from your evidence generally, that with regard to the natives of India, you have a very low opinion of their morality?—Yes.

8653. And you think that every office of trust throughout the country should be filled by Europeans?—Yes.

8654. Do you know enough of the history of India to be aware that native states have flourished without Europeans, and that native merchants have made great fortunes?—The few have been enriched to the impoverishment of the many, in all the instances I have known.

8655. Do you think that native merchants who have made large fortunes have in all cases been great rogues?—I do not say that; I am only speaking of the native character generally. There may be honest men among them; I myself know some honest natives, but they form exceptions to the rule.

8656. Do you think that the native merchants who made large fortunes were exceptions to the rule?—I know instances of men who are notoriously supposed and reported by the natives themselves to have acquired their property by fraud and corruption.

8657. Have you not heard instances of a like character in this country?—I have heard of such instances; but I believe that those instances bring on people who act in that way the execration of every good man in the country.

8658. Do you think that in the native circles in India, dishonesty is not disapproved of and reprobated?—I do not think that dishonesty brings upon the person who is dishonest that degree of reprobation in native society in India that it would bring in any other society.

8659. In the case of native governments which have existed, have not the people been tolerably well ruled in some cases?—They have been ruled to the exclusive advantage of the rulers.

8660. Is that consistent with the evidence we have had before us, that in the native states now existing in India the masses of the population are as well off, and some say better, than the people in our own territories?—I have heard it remarked that there is an appearance of comfort and competency in some of the villages in the native states, greater in extent than there is in some of the Company's villages; but if we may judge from the circumstances of the two countries, that cannot be in consequence of the native government being a more lenient one or less oppressive than the European government.

8661. But still you have heard from good authority that the fact is so, have you not?—I have never heard that the mass of the people were as well off under the native as they are under the English government.

8662. Have you ever been through the Sattara territory?—I have been through part of it.

8663. Have you ever seen in our own territory more instances of thriving

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villages and better cultivation than you have seen there?—I have remarked appearances of comfort in the villages, but on inquiry I have found that the people have been compelled to keep up a sort of appearance, and that that appearance has not been the result of their being placed in more comfortable circumstances.

8664. Therefore their appearance of prosperity was fallacious?—I have been riding through the native districts adjoining the Company's districts, when I have been followed by villagers who have implored me to intercede to get their village transferred to the Company's Government, and I have ascertained from them, while they have been following me, the conditions under which they lived.

8665. Do you believe that all the appearances of prosperity that you saw in the native states were fallacious, and that they were only put forward with a view to deceive travellers?—I believe that those appearances appertained to other than the working classes. I believe that under the native Governments all except the working classes are as well, or better off, because they can with impunity plunder the lower classes.

8666. Your remedy would be to substitute in every case, in offices of trust, European agency?—European superintendence.

8667. How do you think it would be received by the nation at large if no opportunity were given to a native to rise above a low estate, and if every office in the country yielding any emolument were occupied by a foreigner?—It would be appreciated by the mass of the people, but it would cause discontent in the expectants of office, undoubtedly.

8668. Do not those form a large class of the community?—The objection would arise principally from the educated classes.

8669. Do you think that the country can be safely held if the educated classes are repressed in that manner, and if every avenue to their getting on in life is shut out from them?—In 19 cases out of 20 I believe that the natives seek education with a view to obtain public employment.

8670. And with what motive do you think the bulk of the European people seek it?—For its own sake.

8671. Do you not think that a desire to rise in life is a great motive, inducing parents to give a good education to their children?—The object of parents in India, I believe (and I have made many inquiries on the subject), has been to get their children into employment. They do not set any value on education for its own sake; on the contrary, were it not for the prospect of their children obtaining public employment, parents would not allow them to be educated, as they rather discourage than encourage education.

8672. You think that the principles of human nature are altogether different in the Hindoo bosom from what they are in our own?—I believe that the customs and the caste rules of India are so permanently fixed upon their minds, that they have no desire for change, and that they cannot change their views of life, or their conduct in life, without violating the rules of their caste.

8673. Is not the objection to change the distinguishing feature of a very important class in this country?—There may be an objection to change, but there is no class of people in any other country who are bound down to the rules of their caste as they are in India; they are prohibited from change.

8674. Mr. *Willoughby*.] You have established a factory in the Broach district?—Yes.

8675. Will you state what its nature, objects, and uses are?—I have two establishments in Broach: the one is a cotton ginning establishment, and the other is a cotton spinning establishment; the spinning establishment is still an experiment.

8676. Are the Government and local authorities, as far as your experience goes, well disposed or otherwise towards European settlers?—As far as my experience goes, they are very favourably disposed towards them.

8677. Is there any obstacle, that you are aware of, to other persons settling in the Broach district, if they think it advisable?—None whatever, that I am aware of.

8678. Do you not think that, in general, European settlers, unless they are well experienced in the country, as you are yourself, would successfully compete against the native merchants or middlemen?—In nine cases out of ten they would fail, in my opinion.

8679. That is an obstacle which, of course, the Government could not remove?—Yes; it depends solely upon themselves; but from my knowledge of business men, and the difficulties they would have to contend with there, I believe that nine

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nine out of ten would give up rather than contend against the numerous obstacles they would find standing in their way.

8680. Is the climate of Broach suited to the permanent residence of European settlers; is it not very unhealthy after the rains?—It is subject to fever; but since I have been in Broach the station has been, what may be considered for India, healthy. In my own case I have never had the least illness there; indeed, I enjoyed better health there than I ever did in my life elsewhere.

8681. You have alluded to roads in Guzerat; is not there in the parts with which you are acquainted a great scarcity of cheap material for making roads?—There is no material whatever for making roads.

8682. You mentioned some roads, but you have not mentioned one that exists from Tunkaria Bunder, or from Broach to Baroda?—I am not aware that that road is better than any other road in the district; it has been repaired in the same way as the other roads in the district have been.

8683. You are aware, are you not, that the Government, for a series of years, established experimental farms, and adopted other measures for the improvement of cotton in the Broach district, are you not?—Yes.

8684. And that they incurred considerable expense in doing so?—Yes; the Government expended in Broach about 10,000 *l.* in the pursuit of experiments, which resulted in a total failure.

8685. The New Orleans species of cotton did not succeed in Guzerat?—No.

8686. Was that owing to want of skill, or to the climate, do you think?—It was owing to the climate. I may mention, perhaps, an important fact bearing on that subject, that I myself distributed American cotton-seed among 72 villages one season, and it proved a total failure.

8687. But there was no failure on the part of the Government of an attempt to produce an improved species of cotton?—No; Government adopted every means within its power, and refrained from incurring no expense to promote that object.

8688. There was a law passed to check adulteration, was there not?—Yes, at my instance.

8689. And it was enforced, during Mr. Davis's time, in several cases?—Yes.

8690. And with good effect?—Yes.

8691. Can you state whether, generally speaking, all the ground in Broach that could be profitably cultivated with cotton is not under cultivation?—Yes, I believe it is.

8692. The quantity could not be profitably increased?—No.

8693. You were in America, were you not?—Yes.

8694. And there you gained your experience, or part of your experience, which enabled you to conduct your experiments in Guzerat?—Yes.

8695. What is your opinion as to the condition of the general mass of the population in those parts of the Bombay Presidency with which you are acquainted?—I believe that their condition is one of comparative prosperity.

8696. You have alluded to the corruption and bribery which you say prevails in the native courts of justice; can you suggest any remedy?—In my humble opinion, the best remedy that could be applied would be an abrogation of the regulations, and the introduction of European judges in all the courts, whether the regulations are abrogated or not.

8697. Do you think that a policy which excluded natives from employment in offices of trust and emolument would be just and fair?—I am no advocate for the exclusion of natives from general employment. My objection simply is to their appointment as heads of establishments. In subordinate capacities they are useful and efficient servants.

8698. Do you think that the millions of natives of India would quietly submit to the rule of a few thousand foreigners, if we were to exclude them from all but subordinate employments?—I believe there is no measure so eminently calculated to strengthen the influence of the English Government in India as the exclusion of natives from the heads of departments, and the substitution of Europeans.

8699. With regard to these great defects which you think prevail generally, the natives are the greatest obstacles to good government under any system, are they not?—I believe that a native is utterly unfit for a post which would place him in a position of trust and responsibility.

8700. Is it possible, under any system of government, whether that of the Company or any other, to overcome those defects in character which you have ascribed

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ascribed generally to the natives; and is not that the great difficulty of our position in India?—It may be a difficulty; but if I understand the sentiments of the natives, it is not a difficulty that is at all insurmountable; and far from weakening the influence of the Government, it would, in my opinion, strengthen it.

8701. You state that bribery and corruption generally pervades the native character; that is, the material from which, under any circumstances, we must draw at all events the subordinate agents of the Government, even in your own opinion; how can those defects be overcome in any system of government; is not that the great difficulty with which we have to contend?—I have said, and I again repeat it, that the natives make efficient subordinate servants when well overlooked; but they are neither fit for, nor to be trusted in, posts of responsibility.

8702. You say you think the first step to improve the Government of India should be to abolish the regulations; why?—Because you would get more summary proceedings, and a state of things more adapted to the wishes and circumstances of the people.

8703. What do you think of the proposition advocated by some of the witnesses who have been examined before this Committee; to have a system of justice introduced into the mofussil of India, to be administered by English barristers, with English modes of procedure, and through the medium of the English language by interpreters?—I do not know what part of India that would apply to.

8704. Your own district, Broach?—I should say it would be the very worst thing that could be introduced.

8705. Do you think it is practicable?—I am not prepared to answer that question, as it would be a measure of the Government.

8706. Mr. *Mangles*.] You would have perhaps no objection to state generally whether you have thriven and done well under your operations?—Yes, I have no hesitation in saying generally that my expectations have been realised.

8707. Do you not think there is room for others to follow in your steps?—Yes, I have stated so, I think.

8708. I think you have said the only impediment is the difficulty of overcoming the inherent obstructions arising from the opposition of the natives?—Yes.

8709. But you think, do you not, that a man of equal energy and perseverance with yourself might succeed there?—Success is quite possible.

8710. Are there any obstructions in the way of procuring cotton in any quantity that the country will supply which do not equally exist as to any other description of produce?—No, I am not aware of any obstructions; the only obstructions that interpose to prevent a supply being obtained to the extent of which the land is capable arises from the deficiency of roads and the expense of transportation.

8711. With the railroads, which are now in the course of formation, particularly in the cotton districts, that difficulty will be greatly, if not altogether, removed, will it not?—I believe that when railways penetrate into the interior in any direction it will be the means of introducing a much greater quantity of European manufacture, and of bringing to the seaboard a vast amount of exportable produce, which is now utterly unavailable.

8712. Mr. *Smith*.] Do you mean cotton?—Yes; and all other produce suitable for exportation.

8713. Mr. *Mangles*.] Is there anything in the system of land revenue which is peculiarly opposed to the production of cotton?—I believe the ryots understand their own interests sufficiently well to cultivate that kind of crop which will yield them the largest profit; and whether it be cotton or pebbles, they would pursue the same course.

8714. And therefore if cotton has not been more extensively cultivated, it has arisen (except in Guzerat, where you say the whole amount of land suitable for cotton is in cotton) from the circumstance that other crops have been found more profitable?—It is because other crops have been found more profitable; but at the same time, owing to the want of the means of cheap and speedy transportation from the place of growth to the place of exportation, cotton has not been cultivated in some districts to the extent to which the land is susceptible.

8715. Do you not suppose that if factors were sent out by English merchants to fix themselves in the different great cotton marts, with money to make advances, and with saw-gins like yours to clean cotton, they might obtain any reasonable quantity they desired?—There would not be the means of extending the cultivation of cotton, except under the circumstances I have just mentioned. I apprehend you must be able to pay the ryot a price which would remunerate him for his crop, and you cannot do that unless it will bear the price in Bombay or in the English market.

8716. Therefore the want of communication is the real obstacle?—To a very great extent. There are some districts in which, under any circumstances, I believe the cultivation of cotton could not be extended.

8717. From the circumstance of their being too far from a port of shipment?—Yes; and the character of the soil is not so well suited to the production of cotton as of other crops, therefore cotton, under any circumstances, would not be extensively cultivated; but there are, on the contrary, districts the land of which is highly suited for the production of cotton, which at present is not produced there, in consequence of the ryots not obtaining a remunerating price for it, as compared with other crops.

8718. Do you think that when railroads penetrate the districts suitable for the production of cotton, there will probably be a great increase?—When railways penetrate the interior of India in any direction, the cost of transport to the seaboard will be so much reduced as to enable supplies to be contributed by districts which are now beyond reach of the market; and there will be a very much greater amount of English manufactures introduced into the country.

8719. You have stated that you have done pretty well in India; how was it that you managed to get on and thrive there, in spite of all the obstacles arising from bad laws and regulations, and the bad administration of justice?—I happened to understand the business I was engaged in, and have generally been successful in contending with obstacles of whatever nature.

8720. You think, therefore, that a person having the same qualities that you yourself possess might succeed there, do you not?—Yes; success is equally possible.

8721. Is it not very difficult to administer justice to a people in the state you describe these people to be?—Yes, exceedingly difficult.

8722. Ought not great allowance to be made there for the great difficulties which are admitted to exist?—Yes; the wonder to my mind is, not that the Government has done so little, but that it has done so much.

8723. How would it be possible to fit the natives for the higher offices, unless you first trained them, and tried them in the more subordinate offices, watching them as well as you could?—It is an experiment well worth the trial, but it will not be carried into effect, in my opinion, until after the lapse of a very considerable time.

8724. Would it be possible, do you think, to govern the country by means of Europeans alone?—I believe that if India is to be held by the English, it will have to be governed by Europeans; that is to say, if it is to be under the English Government, it must be governed by Englishmen; and I am satisfied that the moment the natives are admitted to a share of the government to a sufficient extent to give them influence, they will exert that influence for the purpose of driving the English out of the country.

8725. Do you approve of the plan by which the service is fed from the bottom, by appointing young men, and sending them out as it were as apprentices, to rise gradually to the higher offices?—That system has its disadvantages undoubtedly; I believe that it has not conduced to the efficient administration of either justice, or of the civil service, to employ very young men in very responsible situations. The system of training men for India I believe to be a good one, but I believe that that training should go on for a series of years in India, as well as in England, and that a civilian should be first placed in a secondary situation; that he should not be allowed to have charge of any department of responsibility until he had acquired sufficient experience and knowledge of the language and of the people to enable him to discharge to the best advantage the duties that would devolve upon him.

8726. Is not that so now as a general rule?—I would add further, before answering the other question, that I believe it would be very advantageous to continue to employ a civilian in the department in which he enters on the service; that is to say, if he is first apportioned to the judicial branch, he should be allowed to continue in that branch; and so as to the revenue and any other branch. I believe, indeed I may say it is consistent with my own knowledge, that both the Government and the people of the district in which I have lived have suffered by the frequent changes of official persons which have taken place from one branch of the public service to the other without any previous knowledge of the

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the new duties which were assigned to them. I believe that that is alike injurious to the interests of the country and to the character of the public servants.

8727. How do you reconcile your opinion of the general untrustworthiness and dishonesty of the natives with the system of banking and remitting money by Hindoos, which is so universally prevalent throughout India?—In their monetary engagements, that is, in their exchange operations, the natives are particularly honourable and faithful; but that forms an exception to their general character. It is a remarkable fact that you very seldom hear of an act of dishonesty in exchange operations.

8728. What is your experience of the knowledge of the civilians generally in the native languages?—I know some civilians who are, comparatively speaking, great proficients in the native language, and fully qualified to transact any business they may have in the language of the district.

8729. *Chairman.*] The question was put generally?—Generally, I think they are as proficient in the native language as any other class of men in similar circumstances; where they are not so in our part of India, it is an exception.

8730. Mr. *Mangles.*] You have been asked about the state of the native Governments; has any native Government ever attempted to put down such things as the system of Pindarees and Thugs, as the British Government has?—I believe, as far as I know from history or from hearsay, that no native Government ever busied itself about anything, except its own aggrandisement and the plunder of the people; they never attempted to put down any evil.

8731. Mr. *Campbell.*] Your practical experience has been confined to the Presidency of Bombay, has it not?—Yes.

8732. But you have instituted comparisons between other Presidencies in India and Her Majesty's colonial possessions, and you arrive at certain practical conclusions in reference to them, which may not be borne out by fact, unless you had a practical knowledge of the places of which you have spoken?—I am not aware that I have instituted any comparison between the part of India with which I am acquainted and other parts.

8733. You have said that the Bengal indigo planting system is unadapted to the rest of India?—Yes, inasmuch as there are no indigo plantations in the rest of India.

8734. How is that system unadapted to the rest of India?—Because, if I understand rightly, in Bengal an indigo planter, or any other private individual, can acquire land to a great extent, and become virtually the proprietor of the land, and exercise entire control over the cultivators of it; but nothing of that kind obtains in Western India that I am aware of; to that extent only it is that I wish to institute a comparison between the two parts of the country.

8735. Are you not aware that in Madras and in the north-western provinces of India indigo is grown upon the same system as it is in Bengal?—I am aware that it is grown in the north-western parts of India, but I am incorrectly informed if it is grown on the system which prevails in Bengal.

8736. Cannot you have the ryots' rights transferred to you, or have a lease of their land, so as to enable you to grow anything in which you may wish to embark your capital?—I do not think you could have the ryots' rights assigned to you; that is to say, so that you could occupy an intermediate position between the ryot and the Government. I know that in the districts in which I have resided, if a European or a native, or any other individual, were to offer to the Government to pay the assessment, on condition that the interests of the village should be consigned to him, the ryots would one and all rebel against it.

8737. Have you ever held land yourself in Western India?—No.

8738. As regards the statements you have made with reference to the appointments of governors and other officers to the colonies, as compared with the mode of appointing governors and other officers to the possessions of the East India Company, you say that the system obtaining in Her Majesty's colonies is totally inapplicable to India?—Yes.

8739. You are aware, are you not, that the Governor-general of India and the governors of the presidencies are appointed in almost precisely the same way as the governors of our colonies?—Yes, I am aware that the governors are, but there you stop.

8740. You arrive at deductions rather antagonistic to the system of appointment of governors to the colonies; are you aware of the position of Ceylon 30 years ago in reference to its products?—No, I am not.

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8741. Do you know to whom we owe that large and important branch of commerce, coffee, which at this moment Ceylon chiefly produces?—No; I only know that the coffee interest has been an exceedingly fluctuating one.

8742. Perhaps you know that the first coffee estate in the island of Ceylon was created by the then Governor of the island, Sir Edward Barnes?—I am not aware of that fact.

8743. And that to him we are indebted as the pioneer of that enterprise, for the important staple commodity we now receive from that island?—I would say also, with respect to the introduction of coffee into Ceylon, that Indigo, I believe, was first introduced in Bengal by a civil servant.

8744. It grew wild in Bengal first, did it not?—It was first successfully cultivated as a merchantable article by one of the civilians of that Presidency.

8745. Would you name the gentleman?—Mr. Prinsep.

8746. In what year was that?—I do not know. He was the father of the present Mr. Prinsep; that was the foundation of the present prosperity of the indigo cultivation.

8747. Are you aware of the condition of the roads in Ceylon?—No, I am not.

8748. Are you aware that, 30 years ago, one of the finest roads existing in any country was made there by the then Governor, Sir Edward Barnes, in the face of the greatest possible natural difficulties?—I was not aware of it.

8749. You say that the production of Ceylon is entirely under European superintendence, is that so?—Coffee is the staple production of Ceylon.

8750. The staple export production, but it is only a tithe of the general production of Ceylon?—That is, the exportable production.

8751. Cinnamon, spice, and so on; the production of that is not under European superintendence, is it?—They bear very little proportion to coffee.

8752. Do you adhere to the opinion you have expressed, that the entire production of Ceylon is under European superintendence?—The coffee production is.

8753. But you said that in Ceylon everything is under European superintendence; such, however, is not the fact?—I am very happy to be corrected.

8754. As to the difference between the condition of the Cingalese, as compared with the people of India generally, to what do you attribute that?—I am not sufficiently acquainted with the condition of the Cingalese to be able to institute a comparison. I believe that Ceylon is well governed.

8755. Would you not attribute the advancement of the Cingalese to the fact that the Dutch, in governing that island, endeavoured to teach them their own language, to imbue them with their own habits, customs and manners, and that that system has been followed up by the English since?—That may be the case, but it is not a subject that I have interested myself in.

8756. You are aware, are you not, that Ceylon has naturally fewer advantages than India generally has, as regards soil and labour?—I believe it has not.

8757. And that labour has to be imported, and manure has to be resorted to in Ceylon, which is not resorted to in India, from the richness of its soil?—I believe that is the case.

8758. Are not the prejudices of the Buddists as great in Ceylon as regards progress, as the general prejudices of the Hindoos are in India?—As far as I have heard, I believe they are not. Bhuddism is not a caste religion. I have heard that the Cingalese are a more tractable and improveable people than the Hindoos.

Martis, 20° *die Julii*, 1858.

MEMBERS PRESENT.

Mr. Gregson.
Mr. Kinnaird.
Mr. Mangles.
Sir Erskine Perry.
Mr. J. B. Smith.
Mr. W. Vansittart.
Mr. Villiers.

WILLIAM EWART, Esq., IN THE CHAIR.

Andrew John Moffatt Mills, Esq , called in; and Examined.

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8759. Mr. *Mangles*.] YOU were a member of the Bengal Civil Service?—Yes.

8760. When did you go to India?—I arrived in India in May 1826, and left in 1855.

8761. Were you never at home in the interval?—Yes, for two years and a half.

8762. What appointments did you hold after you ceased to be assistant?—I filled appointments both in the Revenue and Judicial Departments.

8763. Will you mention, if you please, what they were?—In 1828 I was appointed joint magistrate of Pubna; I was selected by Government. A new district was constituted, taken from part of the Rajshai and Jessore districts, and I was appointed the first magistrate.

8764. *Chairman*.] In what part of India was this?—In Bengal; a new magistracy was established in consequence of the disturbances in that part of the country; affrays between the indigo planters and zemindars, and among the zemindars themselves were freguent. The country was in a very lawless state at that time.

8765. Mr. *Mangles*.] Was it on the banks of the great Ganges?—It was near the Ganges; I was sent to Jessore for a year and a half in 1833, as magistrate and collector, and then I returned again to Pubna; in 1835 I was appointed magistrate and collector and salt agent at Cuttack, and in 1838 I was appointed commissioner of revenue and circuit of that division, and superintendent of police. I remained at Cuttack till the year 1847, when I came home to Europe on furlough. I returned to India about the latter end of 1849, and in 1850 the first appointment that I held after my return from furlough was that of chief magistrate at Calcutta. In 1851 I was appointed a judge of the Suddur Court, and in the year 1854 I was appointed member of the Legislative Council of India.

8766. And that office you retained till you came home?—Yes. I may mention also that I was selected by the Governor-General in 1853 to make a tour of the north-eastern part of Bengal, to report upon the state and condition of the different zillahs that I was desired to visit, preparatory to Lord Dalhousie himself going into the interior, and satisfying himself of the state of affairs in those districts; I was ordered to report on each district, and to lay my report before his Lordship when he should arrive in those parts.

8767. What were the districts you visited?—First, I went to Serajgune; then I went to Bogoora, then to Rungpore; then to the different districts of Assam; to Mymensingh, Sylhet, Cachar, and Cherra Poonjee.

8768. Did you go to Dacca?—I have been there, but not officially.

8769. What was the opinion you formed from that visit, combined with your former experience as a magistrate and collector, of the condition of the people in that part of India?—I think, considering all the circumstances of the country, that the condition of the people is on the whole good.

8770. I am speaking now of the whole of the east of Bengal; according to your experience in the indigo districts, of which you have been collector and magistrate, and which you visited, are there any impediments to the free settlement of Englishmen there?—I am not aware of any impediments whatever; the indigo planters complain, and with reason, of the administration of justice and of

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the state of the police; there may be annoyances to Europeans settling in those countries, but I do not think that there is any real hindrance or impediment to their settling there, nor have I heard, in conversation with planters, any objections of that kind stated.

8771. You never heard of anybody who was either prevented from settling there, or who was driven away after he had settled there, by the state of things existing in that country?—Certainly not.

8772. It has been stated here that the life and property of Englishmen are not safe in the Mofussil; is that consistent with your experience?—Certainly not.

8773. Did you ever learn of an indigo planter settled there losing his life, or having been in any danger of losing his life?—No, not that I remember; I recollect instances of an indigo planter being seriously maltreated by the people, and disputes and affrays occurring.

8774. What experience have you had of the affrays arising between rival indigo planters, or indigo planters and zemindars, and zemindars and indigo planters?—Affrays of both kinds were very prevalent at the time when I went to Pubna; but I believe that affrays between indigo planters and zemindars have of late years greatly decreased, though they do still occur.

8775. What was the cause of these affrays?—There were various causes; the sowing of land by force, or one cutting the indigo plant of another, disputes regarding land, cattle trespass, and so on.

8776. Was it a common thing to sow land by force?—Occasionally; frequent complaints were made of it, at the time I am speaking of.

8777. And cutting crops by force?—I remember disputes of that kind, too.

8778. And taking possession of land?—Yes; disputes regarding land were very common.

8779. In the district in which you were magistrate, you had indigo planters of all descriptions, I suppose; some of them were good and peaceable men, were they not?—Certainly.

8780. And others were not so?—Others were of a turbulent character; people who took the law into their own hands more than others did.

8781. Was it not a common thing for a man to establish a factory on the skirts of another factory, and settle down as a sort of interloper, to steal the land in the cultivation of another?—I do not myself recollect any instance of that kind; it is many years back now that I am referring to, the years 1828, 1829, 1830, and 1831, and I cannot call to mind any instance of the kind, though there may have been such.

8782. In your judgment, was the administration of justice such as to prevent the successful carrying on of indigo planting or any other description of commerce in the Mofussil?—Certainly not.

8783. Was there anything in the state of the police to prevent it?—No, certainly not.

8784. In any of the districts in which you have been settled have you known any foreign gentlemen, Frenchmen, or Italians, or Spaniards, settled as indigo planters?—Yes, I remember one or two; Doctor Salano, for instance, he was a Spanish gentleman.

8785. Was Signor Larulletta in your district?—I recollect him, he was not in my district.

8786. And did you know the Count de Fremont?—No.

8787. These foreign gentlemen were entirely subject to the Mofussil courts, and were not under the Supreme Court at all, were they?—Certainly.

8788. They had no means of redress in the Supreme Court if they were wronged, but were subject to the Mofussil courts, exactly like any native?—Yes.

8789. Were they under any difficulties or impediments in carrying on their business, as compared with the British planters?—Not that I am aware of.

8790. Were they as successful as others?—I believe so.

8791. Did you ever hear Mr. Larulletta speak of his success and prospects, and what he thought of the country?—No, I have not seen him for many years.

8792. I believe he is dead?—I do not know.

8793. But your experience is that the foreigners who were subject entirely to the jurisdiction of the Mofussil courts, carried on business as easily and as successfully as English planters who were under the Supreme Court?—Certainly.

8794. Are you aware of the new system of examinations in the native language and in the laws of the Government?—Yes; I was one of the Board of Examiners,

and

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and can speak upon the subject, though I have not given my attention to it of late.

8795. Were those examinations conducted strictly?—Most strictly.

8796. Was it not the object of the examination to ascertain whether the students, after they had been for some years in the service, had acquired a competent knowledge of the native languages?—Quite so; before an assistant could obtain promotion, he must pass the lower standard; and before he could exercise the powers of a magistrate, he must pass an examination in the higher standard.

8797. There were in fact three examinations, were there not?—Yes; one on entering the college; then the first examination for the lower standard, and the second examination for the higher standard.

8798. To pass those examinations, was it necessary that a young man should have a real knowledge of the native languages?—Certainly.

8799. Was it not one of the tests that a paper should be written by a darogah or a thasildhar, or an ameen, in the native language, in a running hand, either in Bengalee or Hindoostanee, or both, and that he should be required to read and translate it without having seen it before?—Yes.

8800. And then and there to write an answer to it?—Yes; he was to translate a paper from the native language into English, and then to have either a criminal or a revenue case read to him, and the decision being withheld, he was required to write his decision upon the case.

8801. Was he not required to read a paper written in the running written hand of the natives?—Yes.

8802. And to write an answer to it?—Yes.

8803. And write an answer to it?—Yes, to the extent of writing off a decision upon the paper read to him.

8804. And write an order upon it?—I think he was generally given an extract from some case in English, and he was then required to put that into the native language.

8805. Was the examination such that no man could pass it without having a thorough knowledge of the language?—Certainly.

8806. It has been stated that very few civilians are competent to hold a conversation of any length with a native gentleman or with a ryot; is that your experience?—Certainly not; quite the contrary I should think.

8807. Could you have carried on such a conversation?—I should hope so.

8808. Was it not often the case that you had nobody to speak to at all but natives for weeks together?—Yes; I was nearly four years in a district in which there was no European at all, and no doctor.

8809. Therefore you never spoke English?—Except in my own family; or to indigo planters coming to the station.

8810. It has been stated that the Government and its officers discourage English settlers, and show them the cold shoulder, and throw cold water upon their efforts; is that your experience?—Certainly not; my impression has always been that the Government has done everything it possibly could to encourage the settlement of Europeans in India.

8811. For example, when the Government took up the tea cultivation in Assam, as an experiment, did they not announce that as soon as anybody would take it off their hands, they would be happy to hand it over?—Yes.

8812. And did they not so hand it over?—They did.

8813. Did they not then seek to encourage European settlers to come and take these matters in hand?—Certainly they did.

8814. Is it true, as has been stated, that young men are employed now more than they were formerly in the office of magistrate?—Of late years that may have been so.

8815. What is your opinion as to the union of the offices of collector and magistrate?—I approve of the union, and the natives like the union, I think, generally; they like the power of the district being united in one centre.

8816. Do you think that the natives like the system of the division of authority; do they understand our notions of the separation of the judicial from the revenue departments?—No; I do not think they do.

8817. They like the system of one ruler having all power?—Yes; they like one ruler having all power in the district.

8818. Do you think that that is a prevalent feeling in the Asiatic mind?—Yes; I think so, certainly.

8819. You

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8819. You are of opinion that they do not understand our nice distinctions of authority and power?—No, they do not.

8820. And our complicated system of judicial administration?—No.

8821. Does it appear to you, that in those districts you have been in, to the eastward, there is much opening for European capital and enterprise?—I have the report here that I made on the district of Assam, and with the permission of the Committee I will refer to such parts of it as relate to this subject; it was a report made by me on the state and condition of Assam, and it was printed for the use of Government.

8822. Is there any part of it that relates to the settlement of Europeans?—Yes; there are some parts of it which bear upon that subject.

8822.* Will you read those parts, if you please?—First as regards the rules for granting waste lands; I may say that in Assam there is a great quantity of land at the disposal of Government. It is a country with a very rich and varied soil, and there are no talookdars or zemindars. In former times, not only the soil, but the subject was the property of the state; and when we took the country, we ✓ did not introduce the zemindary system, so that it is open to the Government to grant land in any quantity, almost, to persons settling in that part of the country. There is a superabundance of land, but a great deficiency of labour in the province; few grants have been made, and the grantees of waste lands have mostly failed.

8823. *Chairman.*] From what cause have they failed?—They have failed partly from the want of capital, and the impossibility, in the present abundance of land, of renting any land whatever, and partly because cultivation of the common crops of the country by hired labourers, who are themselves all holders of land, and indifferent to working for wages, will not repay, in the low state of agriculture amongst all Assamese, of either the lower or upper classes; when land is taken out by speculators involving outlay and a distant return, I think the terms cannot be too liberal. Colonel Jenkins states, "That every European speculator expresses himself dissatisfied with the rules, and that nothing but the absolute rent-free tenure of the land will induce people to bring English capital largely into the market." I stated that the best plan would be to sell the waste land at once; ✓ but this I always understood was opposed to the orders of the Court of Directors, I therefore proposed that waste land be granted to speculators on the following conditions: "That no grants be for less than 100 acres; that they be rent-free for 15 years, to be assessed at one anna per beegah for ten years, and thenceforward for the remaining period of the lease (the whole term being fixed for 99 years) at two annas per beegah; and that, on pain of resumption, one-fifth of the land be brought into cultivation by the expiration of the tenth year."

8824. Mr. *J. B. Smith.*] How long ago is it since this report was made?—It was made in 1853.

8825. Mr. *Mangles.*] But the Assam Company pay rent for their land still, do they not?—Yes. I would also beg leave to read the 80th paragraph of my report, regarding European settlers. "I have noted above the encouragement which I would give to European speculators to take up waste land. Want of labour is the great impediment to persons undertaking such enterprises, and on this subject I have received through you a memorial from the Assam Company."

8826. Mr. *J. B. Smith.*] To whom is this report made?—It is addressed to the Government of India. "I visited their tea barrees, and from personal observation can testify to the present advancing position of the company, and to the great benefit which their expenditure has been in reclaiming parts of Seebsagur. They have cleared a great deal of forest, and are ready to clear more, and have established, I think, a claim for that degree of aid which, as they truly observe, operating chiefly for the benefit of the general interests of the country, would, by removing radical difficulties, greatly tend to the advancement of this undertaking. They accordingly submit the subjoined propositions for the consideration of Government: That the existing steam communication be extended to Debrooghur, in Upper Assam. That the steamers plying be accompanied by cargo flats, for the conveyance of goods and passengers, and for produce downwards. That the rate of passage charged for coolies by the steamers be fixed upon such a moderate basis, as would be calculated to encourage and promote their introduction to the province. That a monthly communication be maintained with Gowhatty. That the trips to Debrooghur be periodical, at intervals not exceeding two months."

8827. Mr. *Mangles.*] They do not appear to have complained of having had to pay rent for their land?—No, not at all.

8828. Then why should you think it necessary for others to have their land rent free, if these parties succeeded so well on the leasehold principle?—The country wants labour so much, that the most liberal encouragement that can be given to settlers is necessary in a country like Assam.

8829. Could anybody reasonably be expected to succeed better than the Assam Company, which has succeeded in spite of all impediments?—No.

8830. Do you think that an individual would more willingly go and settle there if he had to pay no rent for his land?—Yes; it is such a waste that you must give them all the encouragement you can to induce them to go there, or they will not go.

8831. Are not individuals successfully establishing tea plantations there, besides the Assam Company?—There were a few there.

8832. Mr. *J. B. Smith.*] What were the terms of the Assam Company?—I will read the 44th paragraph of my report on the district of Seebsagur, in which the principal cultivation lies: "Appendix 1 is a return of grants of waste tracts, made in the district under the orders of Government, dated 6th of March 1838; the total quantity of the grants is 3,782 poorahs."

8833. A poorah is about an acre, is it not?—An acre and a quarter, I think. "The total quantity of the grants is 3,782 poorahs, and with one exception, viz., No. 15 grant, for 108 poorahs, have been allotted to the Assam Tea Company; the terms of the grants are, rent-free for 20 years, and on the expiry of this period, the lands are to be taxed for the next three years at 12 annas a poorah, and for the remaining 22 years of lease at one rupee eight annas per poorah. I visited the tea plantation, and was much gratified to find that the clearance of the lands was steadily advancing, and that the company are commencing to reap the fruits of their enterprise; with more economical management at the outset, it is certain they could have derived a fair profit long since; the difficulty they have to contend with is the want of labour, arising not only from the scantiness of the population, but the natural indolence of the Assamese. The company give employ to 3,000 men, and of these only one-third are inhabitants of the district. The remainder are Cacharees from Durrung and Bengallees." (Durrung is one of the districts of Assam.) "The importation of labourers from Bengal is very expensive, and I am informed it costs the company 15 rupees per head to land them at Nazeera. The collector has furnished the following statistical information regarding the operations of the company. The Assam Company now number 15 factories, with cultivation varying from 15 to 400 acres each, and the aggregate cultivated area is 2,500 acres, of which 1,000 acres are plants under four years old. The outturn of manufactured tea, for the season of 1852, amounted to 267,000 lbs., which, valued at 1*s.* 9*d.* per lb., gives a return of 23,362*l.* In the Appendix (J.) the collector has shown the outlay, produce, and profits, in a small baree of 100 poorahs, cultivated at the rates in force in the Assam Company. It seems to me to offer an advantageous investment of capital to persons of substance; but the outlay at first being considerable and the produce small, it would not answer to establish a factory with borrowed funds. There are in the district three plantations belonging to private speculators. Two are the property of Moneeram Doss, an Assamese gentleman, formerly in the employ of the Assam Tea Company; and the other is owned by Mr. Mornay, who has applied for a grant. Moneeram has not obtained a grant for the land forming one plantation. The land composing the other he has leased from a mouzahdar. These plantations are, it is stated, on a small scale."

8834. Sir *E. Perry.*] How many Europeans are there there besides the Assam Company?—There are three plantations belonging to private speculators in this district, and one or two higher up, I think.

8835. Mr. *J. B. Smith.*] What was the whole term for which the land was let?—Ninety-nine years I recommended. "The terms of the grants are rent free for 20 years, and on the expiry of this period, the lands are to be taxed for the next three years at 12 annas a poorah, and for the remaining 22 years of lease, at one rupee eight annas per poorah."

8836. What was the date of that lease?—I am not aware; I forget when the company was established; but I believe it was about the year 1838.

8837. Mr. *Mangles.*] What is your opinion of the trustworthiness of the

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natives as judges, or as officers of the police?—I think that the character of the native judges is very much improved of late years.

8838. What, in your opinion, has been the cause of that improvement?—The higher pay they receive is one great cause of their improvement; they have been paid better than they used to be paid, besides which, education, of course, has had its due effect.

8839. Has there been a stricter supervision?—Yes; a stricter supervision.

8840. Some of the witnesses have recommended that Europeans should be much more largely employed than they are, and that the natives should be to a great extent excluded; do you think that that would have a good effect both as regards the administration of justice and the police?—I should certainly not advocate that system; I do not understand in what way it could practically be carried out.

8841. Sir *E. Perry.*] Some of the witnesses have advocated the employment of Europeans in every office of superintendence throughout India; do you fall in with that theory?—All the higher offices are at present held by Europeans.

8842. *Chairman.*] As superintendents of police, for instance; an infusion of a certain number of Europeans into the police would lead them to correct and detect crime in a superior way to what they do now, would it not?—It might do so.

8843. Sir *E. Perry.*] Do you recommend that there should be a greater employment of Europeans in any offices of trust in India than there is at present. That has been recommended as a remedy for existing evils; do you agree in that view?—No, I do not. Europeans are generally employed, I believe, as deputy magistrates.

8844. Mr. *Mangles.*] Do you think it would be possible to fit the natives for judicial administration or for the police without employing them, and allowing them, as it were, to work themselves forward. Can you, in fact, fit the natives for offices without employing them?—Certainly not.

8845. Do you think that having sudder ameens, and principal sudder ameens, and using the European judge and the district judge as superintendents, in a great measure, to watch them and revise their proceedings, and receive appeals from them, is the most likely way to render them efficient, pure, and upright?—I think so.

8846. You think that that is a good system, and one that should be persevered in?—Yes.

8847. It has been stated in evidence before this Committee, that the effects of higher pay upon the darogas has only been to make them demand higher bribes; do you believe that?—No, I do not; I believe that since their pay has been raised the character of the darogas has been better than it was formerly.

8848. Sir *E. Perry.*] At the same time the class from which they have been taken is not much improved; they are not taken from the educated classes under the modern system of education, are they?—Some are.

8849. But that is not the rule generally?—The magistrate would have reference to that as well as to other qualifications that the candidates might possess.

8850. Mr. *Mangles.*] Practically, do they not take the best man they can find? —Certainly, whether he is an educated native or otherwise.

8851. Sir *E. Perry.*] Is it not the general course of employment in India that, from the offices of the different collectors and magistrates, they take persons who come in as candidates, and who are found to be industrious and deserving, and promote them gradually?—I think that a magistrate tries to get the best man he can find.

8852. Do you think that the modern educated natives have been much brought forward hitherto?—When I left India they were being brought forward certainly more than they had been before; there was a greater number of them, and a greater field for selection.

8853. *Chairman.*] Might not a European introduce among them rules for taking evidence and for detecting crimes which probably would not be known to the inhabitants of India?—I think he would be entirely dependent upon the natives for the detection of crime; when I was chief magistrate of Calcutta there were European policemen, who were excellent officers for preserving the peace, but they could not detect crime without the aid of natives.

8854. But could they not set the natives in the way of doing it?—I do not think that the natives want aptitude in that way; they will trace out a thief better than a European can, because they are so well acquainted with the habits

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and customs of the natives; in such a case a European would be at fault immediately.

8855. Are Europeans as open to bribery as the natives are?—As to the lower class of Europeans who had been employed, it was established, I believe, in the inquiry which was held into the conduct of the Calcutta police, that they were as open to bribery as the natives themselves were.

8856. In your opinion, would a properly selected European be so likely to be under the influence of bribery as a native?—Certainly not, I think.

8857. Mr. *Mangles.*] You say the Calcutta police, before your time, were English?—When I was chief magistrate of Calcutta, there were several European policemen, and I believe it came out in the course of the inquiry which was instituted respecting the conduct of the police, that bribery and corruption had taken place among them.

8858. Sir *E. Perry.*] A witness has stated that the native mind is not calculated to deal with circumstantial evidence, and that they are not acute in tracing crime; what is your opinion as to that statement?—I do not agree with it.

8859. Do you not think, on the contrary, that they are extremely acute in their reasoning, and that circumstantial evidence has perhaps more weight with them than it has with us?—Certainly.

8860. They know, do they not, how inconclusive and unsatisfactory direct evidence is?—Yes. A native, no doubt, when he seizes a criminal, will press him to confess; but he is expert at tracing out crime from the surrounding circumstances.

8861. Mr. *Mangles.*] Do you think it would be safe or not to employ Europeans of a humbler grade as officers of police at a distance from the magistrate?—I would not employ them at a distance from the magistrate, but I think that good men might be introduced into the police with advantage, and they might have the superintendence of the preventive police.

8862. *Chairman.*] You mean by "good men," good Europeans?—Yes; good Europeans might, I think, with advantage, be put at the head of the preventive police, but I do not think that in the detective police they would be of so much use.

8863. Mr. *Mangles.*] What has been the effect, in your judgment, of the exemption of Englishmen in criminal matters from the jurisdiction of the Mofussil courts?—I would not subject Europeans criminally to the orders of the natives.

8864. You are of the same opinion as Mr. Hawkins in that respect?—Yes; I have read his evidence, and I quite agree in the opinion expressed by him upon that point.

8865. Would you not subject them to English magistrates?—Yes, I would subject them to English magistrates.

8866. In all criminal matters?—No; not in all criminal matters; it might be necessary to enlarge the jurisdiction of the magistrates in some cases; they are now subject to the jurisdiction of the magistrates in all petty cases.

8867. Would you subject them to be committed by the magistrates to the Sessions Court for serious offences?—If a proper criminal code of procedure were introduced throughout the country, I think there would be no danger in doing it by means of a jury.

8868. Sir *E. Perry.*] You do not approve of the present system of bringing them down to Calcutta?—No; it is a very inconvenient system.

8869. Mr. *Mangles.*] Would it be desirable in your judgment to establish criminal courts in the provincial cities of Dacca, Benares, and so on, for the trial of Europeans?—That is a question of great importance, but it is one to which I have not given my attention. Do you mean would it be desirable to introduce a supreme court there?

8870. Yes?—No; I do not think it would be.

8871. Is it desirable in your opinion to unite the sudder and supreme courts?—I have read what Mr. Hawkins states in his evidence on this point, and I quite agree with him. The two systems of the courts are so different from each other that I do not see how it is possible to carry out an amalgamation at present.

8872. What is your opinion as to the proposition which has been made for the introduction of the English language into the Mofussil Courts, with a view to the better administration of justice?—I am very much opposed to that; I think it would be a most dangerous innovation.

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8873. Why would it be dangerous?—I think it would be unjust towards the natives; they would have no confidence in the decisions. I think it would cause great alarm and dissatisfaction.

8874. Do you think that barristers who have not been trained in India from their youth, would be fit to be judges in the Mofussil Courts?—I do not think they would; I think that an efficient judge should first of all have passed through the office of collector; he should have become acquainted with the habits and customs of the country, especially as to the land tenures, a kind of knowledge which a barrister would not certainly possess.

8875. A legal education has been much insisted on; do you think it is equally essential and indispensable to the administration of justice that a man should have a knowledge of the manners, habits, and feelings of the people, as well as of their language?—Certainly.

8876. And how do you think that knowledge could be best acquired?—By entering the service as a native enters it, and going through the different grades of magistrate and collector.

8877. Do you attach any value to the plan which has obtained in India, from the very beginning of the East India Company's administration there, of feeding the service from the bottom, getting young men as apprentices, as it were, and training them for the higher offices?—Great value.

8878. Do you think that plan is preferable to throwing the service open to any persons Government might find?—That is my decided opinion.

8879. Do you think that the two systems could co-exist?—I do not think so as regards European officers.

8880. You think you must either have an exclusive or almost exclusive service, or an entirely open system?—You must have either one or the other.

8881. What do you believe to be the feelings of the natives in the Mofussil generally as regards the Supreme Court and the system pursued there; do they, in your opinion, wish the jurisdiction of the Supreme Court to be extended over the Mofussil?—Certainly not.

8882. Sir *E. Perry.*] Do they know anything about it?—No, I think not.

8883. Mr. *Mangles.*] Have they a great dread of it?—Some of them have.

8884. Do you know whether any natives are enticed to sleep within the jurisdiction, in order that they may be rendered amenable to it?—Yes.

8885. *Chairman.*] What do they think of it in Calcutta?—I believe the natives who have been habituated to it from the commencement of our rule, are well satisfied with the administration of justice in the Supreme Court.

8886. Mr. *Mangles.*] Are there not some important points in which the Company's regulations and the laws of India are superior to the laws of England, as, for example, that even since 1793, the Government has put itself in all matters on a footing of perfect equality with the subjects in the courts of law?—They put themselves on perfect equality with them.

8887. Are they not on a footing of perfect equality in all matters?—Yes.

8888. And do they not get justice against the Government, and get costs and damages where they succeed against the Government?—Certainly.

8889. And that is constantly occurring, is it not?—Certainly.

8890. Do you know of your own knowledge whether that is the case in England?—I am not sufficiently acquainted with the laws of England to know.

8891. By the law in India is any evidence excluded on the ground of the disqualification of a witness?—There has been an alteration in the law of evidence in India.

8892. *Chairman.*] Conformably with the alteration in the English law?—Yes; the Act was passed just before I left India.

8893. Mr. *Mangles.*] Is it not the case that no evidence whatever is excluded?—I do not think any evidence is excluded.

8894. The wife may give evidence against her husband?—The husband or wife may give evidence the one against the other; in the code of procedure which Mr. Harrington and myself drew up, we inserted a clause to that effect; it is taken from Act 19, section 4, 1853.

8895. Have not the laws of usury been abolished?—Yes, since I left India.

8896. And do you know anything of the customs' law?—No.

8897. I mean the sea customs?—No, I do not.

8898. As to roads in the Mofussil; do you believe that the trade of Bengal and the interests of indigo planters are much damaged by the want of sufficient roads?—

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roads?—Where the indigo planters are located the rivers are open; no doubt the roads of Bengal are not such as they should be during the dry weather; the want of communication between the towns is felt very much, I believe.

8899. Is it not the case that almost the whole country is passable in dry weather as a road?—It is passable in a way, of course; you can march over the whole country; but there is a great want of roads.

8900. And during the rains in Bengal the rivers are the highways?—The rivers are the highways in the rains.

8901. And the rivers there are very numerous, are they not?—Very numerous indeed throughout all Bengal.

8902. *Chairman.*] Have they been kept sufficiently open?—I believe that every measure has been taken by Government to do so, but with what effect I am unable to state.

8903. Mr. *Mangles.*] You think that native judges are trustworthy?—When I was appointed on the inquiry to which I have referred, and directed to visit the interior, one of my special objects was to ascertain the fitness of the natives for the offices they held, and to see how they administered justice; I visited every court that I could; I examined the proceedings, sat with the native judge, and made him decide a case in my presence; and I was, on the whole, very much satisfied with the quality of the work done.

8904. Sir *E. Perry.*] You were in the Revenue department for the greater part of your career, were you not?—Yes.

8905. And you were not appointed a judge until you had been in India 25 or 26 years. In 1851 you were appointed judge in the Sudder?—Yes. I was a registrar for about two years in my younger days.

8906. That system is now abolished, is it not?—Yes.

8907. The Bengal system is not to educate the judges judicially, but to train them through the Revenue department, is it not?—Yes.

8908. On the Bombay side, on the contrary, those intended for judicial service are lotted off to it early in their career?—I believe so.

8909. Therefore, in point of fact, under the present system, a Bengal civilian has no opportunity of receiving judicial training until he is appointed a judge?—No, except the experience he acquires as collector, which is almost a judicial office, for the collector has the trial of summary suits for the enforcement of rent, and complicated questions of land tenure.

8910. When you first entered the service there was a very good training to be got by filling the office of registrar, which office you yourself held?—I held it for a short time.

8911. Under that system the registrar sat with the judge, and learned all the proceedings in the suit?—He did not sit with the judge.

8912. But under the judge?—Yes, under the judge.

8913. And I believe they also had to decide minor cases, had they not?—To a certain amount.

8914. The judge assigned to the registrar minor cases?—Yes.

8915. And that afforded to young men a very respectable judicial training?—Certainly.

8916. Under the present system in Bengal, young men have no such opportunities?—They have not.

8917. Is your view as to the expediency of appointing barristers to hold offices in the Mofussil founded on the fact, that those barristers would be taught the habits, feelings, and customs of the people?—Yes, and the tenures of the country.

8918. Would it not be possible and very prudent to make a regulation that no barrister should be appointed to a judgeship in the Mofussil unless he had first passed an examination in the language of the country?—That is possible, certainly.

8919. If that were done, it would remove one of your grounds of objection, would it not?—If he were acquainted with the language of the country it would, of course, remove one ground of objection.

8920. And if the barrister had been long enough in the country to become acquainted with the language, and was able to pass an examination in it, he would also have the opportunity of learning the customs, habits, and manners of the people?—I think he would require to have been a collector; he ought to have had a large experience in the Mofussil and revenue departments.

8921. But that is not the mode in which a judge on the Bombay side learns his

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his duties; he learns them in his judicial office, does he not?—I know nothing about that.

8922. Are not the judges on the Bombay side trained in the judicial part of the service from the first period of joining the service?—I suppose so.

8923. Do you not think, with regard to the habits and manners of the people, that the judge gets his information in the course of his inquiries from persons who must know what those habits and customs are much better than himself?—I do not agree with you there.

8924. Do you not think it is the case with the judges in this country, that in going round their circuits they become acquainted with the habits and customs of the people in classes of life very different from their own, and that they derive their information from what they hear in court?—They do.

8925. Is it not necessarily so?—Still that does not alter my opinion of the expediency of the measure you propose. You would make European barristers judges in all the courts.

8926. I am referring to the proposal to appoint trained lawyers from the Calcutta bar, or elsewhere, conversant with the native language, who shall administer the law as a European judge now administers it, and I put it to you whether, if they had that knowledge of the languages which I am supposing them to have, and which might be made a rule, the principal part of your objection to their employment would not be removed?—If they were required to have a knowledge of the language, that of course would remove one great objection.

8927. Take the case of an English judge going into Wales, where the language spoken is Welsh; would not an English trained judge, speaking his own language, be able to administer justice satisfactorily to the inhabitants of Wales?—I suppose so.

8928. Though the language used in court is Welsh?—I know nothing about Wales.

8929. But supposing that to be the case, as it is the case, do you not think that it is a much more satisfactory mode of administering justice, than if the judge were to learn Welsh, and were to express himself very imperfectly in that difficult language?—I do not think the cases are parallel at all.

8930. *Chairman.*] Do you, or do you not, think that a judge versed in law and versed in evidence, and with a judicially formed mind, is equal to a person who is not so versed in law, and in evidence, but who happens to know the manners, customs, and language of the country in which he administers justice?—I do not.

8931. Sir *E. Perry.*] Would not an English officer appointed a judge have an opportunity of acquiring a knowledge of the habits and manners of the people?—If he were employed in the interior of the country, he would, no doubt.

8932. What language was spoken in Cuttack, where you were?—Ooriah.

8933. Were you acquainted with it?—I could understand it, and read it.

8934. But it has no analogy with Bengalee, has it?—Yes, it has a great analogy.

8935. Is there enough analogy between them to make speaking in Bengalee intelligible to a person speaking Ooriah, and *vice versâ*?—Yes; it is very easily acquired, from the close affinity that there is between the two languages.

8936. You were not a judge, but only a commissioner at Cuttack?—Yes.

8937. Mr. *Mangles.*] You were a criminal judge?—Yes, part of the time; for three years, I think, I was a judge on circuit.

8938. Sir *E. Perry.*] You were one of the board of examiners for languages, were you not?—Yes.

8939. You have been asked as to the test of passing an examination in languages, a written document being put into the hands of a candidate?—I observe that the rules have been given in by Mr. Hawkins.

8940. Is it not the case that, after a man gets into office, especially as a judge, these native documents are read for him by his reader?—Of course.

8941. They are, in point of fact, extremely difficult to read, are they not, even to a native well versed in native writing?—Some are, and some are not; it depends on the writing; one man's writing may be more difficult to read than another's.

8942. Is not the writing of the natives much more difficult to read than the written character of our own language, because they leave out vowel points, and so on?—I do not know; English writing is sometimes as difficult to make out as native writing.

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8943. Have you not seen cases in which the most experienced native readers have been much puzzled in decyphering native writing?—I do not recollect.

8944. You have not sat as a civil judge in the first instance, but only as a judge of appeal?—I never was a civil judge, except that I have been three or four months at a time officiating for a judge when he has been absent.

8945. Therefore you are not very conversant with the mode of dealing with evidence in court; what you have had to deal with has been evidence coming before you as a judge of appeal?—But, as a commissioner of revenue, magistrate, and collector, I have had to deal with evidence in court.

8946. Is it your opinion that, after some years of service, Europeans are able to read the written documents that come before them?—What documents?

8947. Native documents?—The knowledge which the civilians now possess of the language is much superior to what it was in former years. When I was one of the board of examiners there were two natives who were members of the board in Calcutta; they had the examination of the translations from the English into the native language, upon which they had to pass their opinion; and I remember many instances in which they stated that they were astonished at the way in which the documents were translated.

8948. But although young Europeans acquire this knowledge, yet is it not a species of knowledge that soon passes away with disuse?—No, I think not. The power of reading Hindostanee documents, when once acquired, I am sure never passes away; Bengalee probably may pass away more easily.

8949. But Bengalee is the language of the country, is it not?—The language of the Hindoos, not of the Mahommedans.

8950. Mr. Hawkins himself, one of the best linguists in Bengal, says that his knowledge of reading these languages would pass away from disuse; can you read Bengalee?—Yes.

8951. In the Nagree character?—No; in the Bengalee character.

8952. Not the Persian character?—No.

8953. It is very like the Nagree character, is it not?—It has a distinct character of its own.

8954. In regard to grants of land in Assam, I understand you to have recommended that an absolute grant of land should be made?—Yes.

8955. But you mentioned, I think, that the Court of Directors objected to a grant of the land in fee-simple?—I believe the Court of Directors, as a general rule, would not grant land in fee-simple.

8956. Do you derive that opinion from your experience in India of what the ruling doctrine of the Court of Directors was with reference to that subject?—It was a general rule, I believe.

8957. And therefore you were compelled to waive your opinion as to what was the most advisable course, and you recommended another?—Assam being an exceptional part of the country, where the land should be granted in fee-simple, if it could be so granted.

8958. Did you mention in your report that it would be better to grant it in fee-simple?—I mentioned that it would be better to sell the waste land at once.

8959. Absolutely?—Yes.

8960. Mr. *Villiers*.] Was the objection of the Government stated to you?—I say, "The best plan would be to sell the waste land; but this is opposed to the orders of the Court."

8961. Do you know how they entertained your view; did they agree to it?—I am not aware whether the report on Assam has been taken up; it was the intention of the Governor-General to go himself to the spot, but Lord Dalhousie was unable to carry out his intention.

8962. Sir *E. Perry*.] You did not recommend it, because the orders of the Court were opposed, as you knew, to such a view?—Yes.

8963. Mr. *W. Vansittart*.] You were a member of the Legislative Council of India?—I was.

8964. You were member for Bengal?—I was.

8965. How long had you a seat in that assembly?—A year, I think.

8966. There were three other members besides yourself in this council for the other Presidencies?—Yes.

8967. You and they were, in fact, the representatives on behalf of the local Government?—In some degree.

8968. Are

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8968. Are there not many Acts of the Legislature, the operation of which is confined to particular Presidencies, or parts of Presidencies?—Of course.

8969. Are you not of opinion that the local Government might have power to pass these measures?—I think it better that the legislative power should be centralised, as it is now.

8970. The Legislative Council, in its present form, was established in 1854?—Yes.

8971. Prior to that, the legislative power belonged, did it not, to the Executive Government of India, with the addition of a member called the legal member?—Yes.

8972. And there was also at that time a Law Commission?—There was.

8973. And the Legislative Council under both arrangements has exclusively exercised the legislative power for every Presidency, and for all India?—The present Legislative Council.

8974. Prior to the period to which I have referred, had not the Government of each Presidency the power of legislating for its own Presidency?—Prior to 1833, I believe they had.

8975. Ought not local governments of such large territories as those of Madras and Bombay to be so constituted, as to be qualified for legislation for its own dominions?—I answered before, that I thought it better it should be vested in the Governor-general of India.

8976. Do you not think it probable that legislation is much more likely to be suited to that Presidency when carried on by the Government for that Presidency, than when carried on by a central and extraneous authority of one of its members at the seat of another Presidency?—No; I think it is fully represented by the members of the Presidency.

8977. The Black Acts, of which the Committee have heard so much, and other measures intended for all India, originated in the Legislative Council, as the organ of legislation for all India, did they not?—I do not know what you call the Black Act.

8978. That is essentially that law that Sir Arthur Buller discussed, and spoke so much about, bringing all the community, without reference to their being European or native, under one law?—That occurred after I left India; I was not present at the Legislative Council when Sir Arthur Buller made that speech, or when the matter was discussed.

8979. Then you cannot say whether these Black Acts originated or not in the Legislative Council?—The Act making Europeans amenable to the Civil Court was passed, I think, in 1850.

8980. I allude to the celebrated Black Acts, which have been so much spoken about, by which a European can be tried by a native magistrate; they originated in the Legislative Council of all India, did they not?—The Black Act had not originated in the Legislative Council while I was there; it came from England, as I understood.

8981. Sir *E. Perry*.] From the Law Commission here?—Yes.

8982. Mr. *W. Vansittart*.] Supposing the large powers of the Legislative Council to be continued, do you not think that indigo planters, merchants, agriculturists, indigo planters, barristers, and other gentlemen should be admitted to the Council?—I see no objection to opening the Council to non-official members.

8983. The Legislative Council, I believe, is constantly entertaining subjects which affect all sorts of interests, social and commercial; would it not be right that those whose interests are affected should have the opportunity of voting on those questions?—I see no objection to appointing a non-official member to the Legislative Council.

8984. In short, ought not the scope and powers of the Legislative Council to be reduced to narrower limits, or else the constitution of the Legislative Council itself be altered so as better to adapt it to its present powers; and should it not, in your opinion, be thrown open to gentlemen of every profession?—I have answered that question already, by saying that I see no objection to a non-official member being appointed a member of the Legislative Council.

8985. Mr. *Villiers*.] Is the Legislative Council appointed by the Crown here, or by the Council in India, or how is it constituted?—The Legislative Council consists of four representative members.

8986. How are they appointed?—One is appointed by the Governor of Bengal, one by the Governor of Agra, one by the Governor-general of Madras, and the fourth by the Governor-general of Bombay. The Act empowers the Governor-general

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general to appoint one judge of the Supreme Court; the chief justice is named in the Act.

8987. Are the members of the Legislative Council appointed for life?—The representatives of the four Presidencies are appointed for five years.

8988. Sir *E. Perry*.] The council consists of 10 or 11 members, does it not?—Eleven, I think; there are the members of the Supreme Council, the Commander-in-Chief, the two Judges of the Supreme Court, the Governor-general, and four members of the Supreme Council.

8989. Mr. *W. Vansittart*.] And they are all more or less nominees of Government?—They are Government men, at least men holding official situations in India.

8990. *Chairman*.] Do you think that the European commercial interest ought to be represented there?—I think the council might be enlarged with advantage in that respect.

8991. Do you think that the native interests might also be represented to a certain extent?—I see no objection to a native being a member of the Legislative Council.

8992. Mr. *W. Vansittart*.] You are acquainted probably with the nature of the Punjaub Code?—No; when I was in India I read the Punjaub Code, but I do not recollect at this time many details of it.

8993. Was not that code made and passed by Sir John Lawrence, without passing through the Legislative Council?—Yes.

8994. May it not then be inferred that Sir John Lawrence thought he possessed, or ought to possess, the legislative power, so far as the Punjaub was concerned?—I cannot answer that question.

8995. You have passed many years in Bengal, and are acquainted with all classes; are there not many persons in the country, both Europeans and natives, well qualified for a seat in the Legislative Council?—I know persons who are qualified for such an appointment.

8996. Are you acquainted with Mr. Charles Raikes, Judge of the Sudder Court at Agra, and late Civil Commissioner with Sir Colin Campbell?—I am.

8997. He bears a very high reputation as an able public servant, does he not?—He does, and deservedly so.

8998. With regard to the Punjaub system and the Legislative Council, he says, in a work he has recently published, "The Punjaub system of Government, as introduced by Lord Dalhousie, and carried out by Sir Henry Elliot, the Lawrences, Mansel, Montgomery, Edmonstone, and M'Leod, is so simple, so powerful, so entirely adapted to the genius of the people, that it must, like truth, prevail, and sooner or later extend over the entire Peninsula; and I believe, but for the opposition of the Legislative Council in Calcutta, this simple system would ere now have been introduced as the basis of our future administration in the North-Western Provinces." Do you agree with that view taken by Mr. Raikes?—I believe that Mr. Raikes is mistaken when he states that it received the opposition of the Legislative Council; when I was in India no such proposition ever came before the Legislative Council.

8999. Mr. *Villiers*.] That is your opinion as to the opposition; the question put to you is, whether you agree with the view taken by Mr. Raikes?—In 1853, I was appointed by the Governor-general, in conjunction with Mr. Harrington, Judge of the Sudder Court at Agra, to draw up a Code of Civil Procedure, which we did, and submitted to the Government; without comparing the two codes I could not give an answer to a question of such great importance; what we have recommended is at variance, to a great extent, with that; it is not so summary.

9000. As far as you are acquainted with the system in the Punjaub, you are at variance with it?—I am not thoroughly acquainted with the system in the Punjaub, but the practice of the courts should be made more simple and rapid.

9001. Mr. *Vansittart*.] You say the character of the native judges has greatly improved of late years?—I do.

9002. Then how do you account for the bad conduct of our sudder ameens and moonsiffs during this rebellion?—I am not aware of any bad conduct on their part.

9003. Are you not aware that Khan Bahadoor Khan, the sudder ameen of Bareilly, after causing the murder of our civil and sessions judge and the additional judge, proclaimed himself king of it, and that Mr. Robert Tucker was murdered at the order of the moonsiff of this station?—I have heard so.

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9004. Do you still retain your high opinion of the native judges?—I do.

9005. After these instances?—My opinion is not shaken by an exceptional case of that kind.

9006. Do you not think that natives generally have greater confidence in a decision passed by a European than by one of their own countrymen?—Certainly.

9007. Do you not think we could get young men of good family and education to go out from this country to fill the appointments of sudder ameens and moonsiffs?—I have already stated, in reply to a question put to me, that I do not.

9008. Mr. *Villiers.*] You do not think you could procure fit persons in this country?—I do not think they would be so competent to administer justice as persons trained to it.

9009. Mr. *Vansittart.*] You disapprove of the introduction of English in our Mofussil courts?—Yes.

9010. The Committee have been told, that if the English language were introduced, it would in a great measure put a stop to that wholesale bribery that at present exists on the part of the omlah, owing to the influence they exercise over the magistrates, collectors, and judges?—I do not see how it would do that.

9011. Then you do not think that the civilians are under the influence of their omlah?—No more than those who are brought from this country would be.

9012. *Chairman.*] Might not a man going from this country be under the influence of the omlah, depending upon him for information?—Yes, exactly in the same way

9013. Sir *Erskine Perry.*] Does a judge of the Supreme Court ever depend on his omlah for any information whatever?—No.

9014. Therefore there the officer never can influence the judge?—No.

9015. But judges in the Company's courts must come into communication with their omlah?—Yes; but they would not be influenced by them.

9016. But they do get a good deal of information from them, do they not?—Yes.

9017. Therefore in one case it is possible that influence may be exercised, and in the other it is impossible?—Yes.

9018. Mr. *Vansittart.*] You do not approve of the separation of the judicial part of the civil service from the revenue, as regards Bengal?—I have not so stated.

9019. Do you think it would be desirable, as has been stated before this Committee, that civilians going out and wishing to go into the judicial part of the service should be kept entirely to that, commencing as assistant to a magistrate; and that those who wish to go into the other portion of the service should go, first, under a collector, then become assistant, then deputy collector, then full collector, and then commissioner, and so forth?—I think that would be desirable, if possible.

9020. I collect from your evidence that Assam would be the best locality in the Bengal Presidency for the settlement and colonization of Europeans?—Not for colonization; but it is a fine field for the employment of capital, I think.

9021. In what part of Bengal is colonization practicable, if there is any?—I am not aware of any.

9022. Mr. *Villiers.*] Will you allow me to ask you for a further explanation of the opinion you just now expressed, as to persons, having had a legal education, going out to fill judicial situations in India; you stated that, in your opinion, they were not so fitted for those offices as persons properly trained in India; what do you mean by "properly trained in India"?—An officer has to go through different grades of the service; he does not become a judge till he has been nearly 20 years in the service; he has then been in constant communication with the people, and has become acquainted with their language, habits, customs, and prejudices, and the nature of the land tenures. A person coming from England would not possess, or very soon be able to acquire, all that information.

9023. But you did not refer to any legal training or practice in the courts?—No.

9024. It is only the being accustomed to the people themselves?—Yes.

9025. And the nature of the tenures of the country?—Yes.

9026. Then a person might be 20 years in India without acquiring any legal knowledge, or being qualified professionally for a judicial situation?—In going through, as the civil servants now do, the different offices, he would become pretty well acquainted with the practice of the courts, I should think.

9027. Would you say that all persons who have been resident in this country, and have filled civil offices for 20 years, would be qualified by that circumstance for a judicial post?—I do not think the cases are analogous at all.

9028. Does it not require something like experience in applying the law, and certainly some knowledge of the law, to enable a man to fill properly a judicial office?—Certainly; acquired, in a great degree, by officers before they become judges.

9029. But a man may be appointed a judge who has no legal knowledge, but who has merely been a civil servant of the Company?—I cannot say that he has no legal knowledge, for he has been a collector, which is a *quasi* judicial office.

9030. But a person in the civil service may eventually become a judge, without having practically applied the law in any office?—I do not exactly understand the question.

9031. It is possible, at all events, if it is not frequently the case, than a man who has held a civil office in the service of the Company shall be appointed a judge, having been in India for a certain time, without any legal or professional experience?—No; I think he will have acquired some legal knowledge as a collector.

9032. Is there any examination, or test, or proof, that he is competent for a judicial situation, when he is appointed, beyond that of his having been in the service for a certain time?—No.

9033. Have you had any experience of the jury system in India?—Not a great deal.

9034. Is it acted on in the trial of criminal cases?—Generally.

9035. Where?—In the Mofussil courts.

9036. You have been a criminal judge, have you not?—Years ago; I have tried cases, with the assistance of a jury.

9037. Do you think that trial by jury is inapplicable to that country; do you think there is any inconvenience in it?—No; I think the jury system might be extended with advantage.

9038. Do you think that the importance of it would be as much appreciated by the natives of India as it is with us?—Yes.

9039. You think it would be suited to their taste and to their views of justice?—Yes; in a great degree I think it would.

9040. And could the jury properly consist of natives?—Yes.

9041. Would it give the people more confidence in the administration of justice if they knew that the verdict was to be returned by a jury of their own countrymen?—It is applied in a limited degree throughout the country now; the judges sometimes sit with the assessors.

9042. Is it optional with prisoners to call for a jury?—No; it is optional with the judge.

9043. Is it dependant on his caprice or discretion?—He can sit either with a jury or with a law officer.

9044. But he does either the one or the other?—Yes; there is a law officer attached to the court to expound the law.

9045. A native?—Yes.

9046. You, sitting as a criminal judge, refer to that person for information?—He sits with the judge as assessor, and at the conclusion of the trial he is called on to give his opinion, as a jury would be, whether the man is guilty or not; and he gives his opinion in writing.

9047. What description of person is he?—A Mahommedan law officer.

9048. What is his station; is he above corruption?—I do not know whether any native is above corruption, but he is a man of great respectability.

9049. He is a man equal to his station?—Yes.

9050. A man, of course, who has had a good education?—Yes; well educated.

9051. Who pays him?—Government.

9052. What do they pay him?—I forget, it is so long since I left India; 150 rupees a month, I think.

9053. A criminal judge, if an Englishman, would be dependant on his exposition of the law, if he felt himself in any doubt or difficulty, would he not?—He would not be dependant upon him at all; he might disagree with him.

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9054. Mr. *Mangles.*] He is not bound by his opinion?—No, not in any way.

9055. Mr. *Villiers.*] Do you depend on him for the law, or on his judgment on the evidence, after he had heard it?—He merely gives his opinion on the facts of the case and on the law, and you are not bound by either; if you disagree in his opinion, the record of the case is submitted to the Superior Court in Calcutta.

9056. Is that an assurance to the natives that justice is done?—Of course it is.

9057. Is that the purpose of the appointment of such an officer?—I suppose so; you have two minds instead of one; after the case is concluded, he is called on for his opinion, and he records it.

9058. Invariably?—Invariably.

9059. Sir *Erskine Perry.*] To the public?—His opinion is written out, and read out.

9060. Mr. *Villiers.*] Did it ever occur, while you were judge, to differ with him?—Yes.

9061. Is the jury system more in vogue at present than it used to be?—I believe so.

9062. Do they have 12 jurors?—No. I have thought so little of Indian judicial matters since I returned from the country, that I really forget the details of the system.

9063. I understand you to say, that in your opinion there would be natives well qualified to fill high offices in the Government of the country, and to sit as members of the Legislative Council?—Yes; I said I can see no objection to appointing a native a member of the Legislative Council.

9064. We have had a very bad opinion expressed here of natives of every description; it has been said that they are invariably impure, and open to corruption; you having had some experience, and having resided for some time in India, do you concur in that?—I do not; I think the native character has improved, and is improving; and I think that, as you pay them higher, it will improve still further.

9065. Then it is not true that natives in every rank of life are untrustworthy?—I do not think so.

9066. We have been told that Europeans generally express disappointment at the experiments which have been made of late years by appointing natives to different high offices of trust; do you concur in that opinion?—No, I do not.

9067. Mr. *Mangles.*] There have been cases of disappointment?—Yes.

9068. But in the majority of cases, you believe that native judges are pure?—Yes.

9069. Mr. *Villiers.*] Then, in your opinion, it is not true that the universal opinion of English people is, that the natives have proved a failure when placed in high offices?—I do not think so.

9070. Do you think that it increases the confidence of the natives generally in the Government of the country, when they see people of their own race and religion joining in the Government?—Undoubtedly.

9071. You would rather be disposed, probably, to extend that system?—I think it is extended as far as circumstances will at present admit. I would not extend it farther at present, except as regards the appointment of a native to the Legislative Council. I see no objection to that.

9072. Have you, yourself, seen any of the working of native judges?—Of course I have, a great deal.

9073. Is it a fact that the natives would rather prefer to have their cases decided by Europeans than by their own countrymen?—They have great confidence in a European judge; they know him to be incorruptible and unbiassed.

9074. But have they not a very general impression that he is necessarily under the influence of some native?—They may have some such impression.

9075. Is it not the fact that a European civil servant must have been more or less under the influence of some native?—Not if he is an efficient officer.

9076. We have had it stated here on high authority, and reference has been made to the published opinions of persons of great note, to the effect that nearly every civil servant is more or less under the influence of a native of some sort?—I do not agree in that opinion at all.

9077. Could you feel yourself independent of that influence when you were in office?—Certainly; I believe I was.

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9078. Was that owing to your having an extensive and perfect acquaintance with the language, and being acquainted with the manners and habits of the people?—Certainly.

9079. Do you think you could say that your experience and competency were such, as to enable you satisfactorily to judge of men giving evidence in courts of justice, whether they were speaking the truth or not?—Certainly; having been long accustomed to try cases, I could weigh the evidence and the probabilities of the case, and come to a conclusion whether the evidence was trustworthy or not.

9080. Have you observed a great defect in getting up cases brought into court from a general reliance on direct evidence, and none on circumstantial evidence?—No; I am not aware of that.

9081. It has been said that that leads men either to commit perjury, or to induce witnesses to state directly that which is untrue?—No doubt there is a great deal of false evidence adduced.

9082. But all they rely on is confession or direct testimony as to the fact in issue?—Who relies?

9083. Is it not the fact, that those who bring the case into court have no other idea of evidence than either a confession on the part of the person charged, or some fact that bears exactly upon the question at issue?—I am not aware of that at all.

9084. Do you observe any deficiency in the subordinate agency there in getting up cases?—They are very acute indeed in getting up cases.

9085. Did you ever have a case proved by circumstantial evidence before you?—Many cases.

9086. I presume that, notwithstanding the employment of native judges, they do not inspire much confidence among Europeans; Europeans would not wish to be subject to their jurisdiction?—They are subject to their jurisdiction in civil cases now.

9087. The native judges?—Yes, the native judges; not in criminal cases.

9088. What you have been referred to, the Black Act, contemplated placing them under the jurisdiction of native judges in criminal matters?—Yes.

9089. Do you see any objection to that?—I have recorded my opinion to that effect in my evidence.

9090. You know that there is a general mistrust, on the part of Europeans, of native judges, do you not?—Yes.

9091. Do I understand you to say that the separate training for the two duties of collector and judge is to go on by the same person?—I have not given such attention to the subject as to be able to answer that question.

9092. You are aware, are you not, that Lord William Bentinck was the first who separated the duties of collector and judge?—Yes.

9093. Mr. *Mangles*.] Is it not the fact, that from the time that an assistant enters the service till the time when he may be made a judge, he is constantly exercising judicial functions, and examining and cross-examining witnesses on different matters?—Yes.

9094. Has he not boundary disputes, questions of rent, questions of tenure, and questions as to the division of estates, and all those matters, brought before him?—Yes.

9095. And are they not completely judicial questions?—They are of a judicial character entirely.

9096. Mr. *Villiers*.] Are those examinations judicial examinations?—The revenue cases are judicial, as are cases also of partition of lands.

9097. Mr. *Mangles*.] The boundary disputes are judicial questions, are they not?—Certainly.

9098. And the collector decides them judicially?—Yes.

9099. And questions arising out of the sale law are judicial questions?—*Quasi* judicial.

9100. Mr. *Vansittart*.] With reference to the questions put to you about the separation of judicial from revenue, are you of opinion it could be done among the present members of the civil service?—If the members were increased, I think it could.

9101. *Chairman*.] Although you state that the judge has a practical education in a judicial sense, do you think it would be better for him if he had a previous education in the principles of jurisprudence?—In England, certainly.

9102. You alluded, in the first part of your evidence, to the frequent invasions of

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of ground by neighbouring zemindars, and affrays consequent on boundary disputes, and so forth; do you think that these acts of insubordination against the law are more or less frequent now than they used to be?—They are less frequent than they used to be.

9103. I think you spoke of them as occurring about the year 1828?—Yes; from 1828 to 1833.

9104. You have spoken of forced cultivation by the planters; do the planters of the present day deny the charge of forcing cultivation?—I hope that instances are rare in which such violence is had recourse to.

9105. Do you think the instances of forced cultivation of indigo are frequent?—No, I do not.

9106. Are they diminishing, do you think?—I hope so.

9107. You have stated, and no doubt correctly, that Government now wishes to be favourable towards European settlers; do you think that in former times the Company was always favourable to European settlers?—Really, to the best of my belief, I think they were.

9108. Have you read the history of the country, and does that lead you to the opinion that there was always a degree of favour shown to settlers?—I am not aware that there was any indisposition to encourage them.

9109. You do not think that in former times the Government was so favourable to European settlers as they are now?—Of course not; they were not allowed to settle.

9110. The whole character of the Government was adverse to settlement?—Yes.

9111. May not the semblance or the memory of this former disfavour on the part of the Government still remain in the minds of European settlers?—It may do so.

9112. With regard to the cultivation of the tea plant to which you have referred in Assam, do you think that the use of tea is likely to increase among the inhabitants of India?—I think it is.

9113. Mr. *Mangles*.] Turn, if you please, to Mr. Hawkins' evidence, Question 4271; he says: "I would go about improving the service in another way. I think that you cannot go about it in a worse way than you are doing at the present moment. The candidates for the present competitive examination are young men of 22 or 23; and it appears to me that this system of competitive examination at home has been framed much more for the benefit of the Universities in England than for the benefit of the people of India. To take a man at 23, and then allow him to stay in England till he is 25, and then send him out to India, is not the way to get a good officer for India. He is too old, and he will not pick up the language in the same way, and will not submit in the same way that we did as boys to the drudgery of inferior situations. The way is, to take your men at 18, and then educate them for a period not exceeding four years, expressly for India, in jurisprudence, law, political economy, Indian languages, history and geography, and to insist upon their attending so many circuits, and attending the county courts. In that way you would raise up a body of men far more efficient than the present; and if they were trained properly at home, you would want no competition in India. But to send out a man at 25 because he is a good literary man does not seem to me to be a good way of getting an efficient service." Do you quite agree with Mr. Hawkins?—Entirely.

William Henry Martin, Esq., called in; and Examined.

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9114. Mr. *Mangles*.] WHAT was your employment in India?—For about five years, or more, I was in the same district, as assistant, and I went through all the usual inferior offices that are held by younger civilians, including among them the office of registrar of the civil court; I was afterwards joint magistrate and collector for some three years, of the district of Furreedpore, in the east of Bengal.

9115. What district?—The district of Furreedpore, near Dacca. I was then acting magistrate and collector of Nuddeah for about a year and half. I then returned to England. When I went out again I was, for rather more than a year, perhaps a year and a half, a civil and sessions judge of Sylhet; and I was then the special judge for the trial of Thugs during the remainder of my stay in India. I was about two months civil judge after that, but just previous to my leaving the country.

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9116. You were civil judge before, were you not?—Yes; but I was appointed judge for the trial of the Thugs; that was a special appointment, confined to that particular department of crime. I was afterwards, for a short time, employed as a civil judge, which employment I held till I left the country, when the appointment was abolished.

9117. You had considerable experience, I think, in Furreedpore and Kishnaghur, the great indigo districts?—Yes.

9118. And you had considerable experience, had you not, as a magistrate in those districts, with reference to the affairs of the indigo planters and zemindars and ryots, as connected with the cultivation of indigo?—I had at that time; it is now a long time ago; but at that time I paid great attention to the subject.

9119. What were the feelings of the ryots and zemindars towards the indigo planters, according to your opinion?—I must say, and I am sorry to say so, that they were not favourable; that the Europeans were most popular in those parts in which they were the least known; and that there was a general complaint against the conduct of the European planters towards the natives.

9120. Mr. *Smith.*] When did you return to Europe?—About 12 or 13 years ago. My stay in India was unusually short; in fact, I gave up the service prematurely.

9121. In what year did you leave India?—In 1845; and of course all my observations are with reference to the state of affairs, as I knew or fancied I knew them, at that time. I cannot state what it is now. I have not even kept up my acquaintance with the subject.

9122. Mr. *Mangles.*] In the districts with which you were conversant were there not French and Spanish indigo planters, who were entirely subject to the jurisdiction of the Mofussil courts?—Yes, there were several very respectable planters and residents.

9123. Who were they?—There was Mr. Larulletta, a Spanish gentleman, who was engaged in several branches of trade, and who was, upon the whole, very successful.

9124. He was an indigo planter, and was also engaged in the silk trade, was he not?—Yes. There was also another gentleman, Count De Framont, a French gentleman of family, as I understood, who had realized a considerable fortune, which he spent, and then went back again to India to make another. I had a slight acquaintance with him. He returned to India, and purchased the same factories that he had had before; and he was on the whole very successful, I believe, in his speculations. There was also a gentleman I knew by character, of the name of Courjon, who was successful, both as a landowner, a zemindar, and an indigo planter.

9125. These gentlemen were entirely and exclusively subject as the natives were, to the Mofussil courts, were they not?—Yes.

9126. The Supreme Court had no jurisdiction over them?—No.

9127. You say they were generally successful?—I think so, and they were very popular with the natives; in fact, it was the subject of remark that they were on better terms with the natives than English planters were, and they were more generally esteemed and liked by them.

9128. Then, of course, as they were successful they were not hindered in their operations by the mode in which justice was administered in the courts, or by the police?—No, I should suppose not; certainly, Mr. Larulletta used to say it was the freest country in the world. When asked why he did not go back to Spain, he said that there was no country in which there was such complete liberty of action as he found in India.

9129. If, therefore, there were any deterring causes, or circumstances of difficulty arising from the administration of the law, and the state of the police, those gentlemen were able to get on in spite of that?—Certainly; there was no insuperable obstacle to success; they were all successful, so far as I understood; in fact, they experienced no real or practical inconvenience from being entirely subject to the Mofussil courts; that is the real truth of it.

9130. Mr. *Smith.*] How long ago was this?—I am speaking now, partly, of 20 years ago, and partly, of just before the time when I left India. Mr. Larulletta was then there.

9131. Are you aware that foreigners consider it a great hardship that they should be obliged to resort to the Mofussil courts, while the English have the advantage of the English courts?—I dare say they do; it puts them in an invidious position

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in comparison with the English planters, but they do not complain of it, and in fact it did not affect them.

9132. Would they not rather have been under the English courts than under the Mofussil courts, if they had had the advantage of being so?—I have known English gentlemen complain bitterly of the Mofussil courts, and yet when they have been taken into the Supreme Court, they have disliked that still more.

9133. Was that owing to the expense of the Supreme Court?—One gentleman in particular had been a strong opponent of what is called the "Black Act," Lord Macauley's Act, making them subject in civil cases to a native court, and yet directly a native took him extensively into the Supreme Court, he complained bitterly of the system; he never defended the cases, because, as he said, it would ruin him if he did.

9134. It was not the system of justice that he complained of, but the enormous expense to which he would be put?—He complained of having to be taken down a great distance from his factories, and the consequent expense.

9135. Mr. *Mangles*.] Do you remember Mr. Macauley's minute on the Supreme Courts?—No.

9136. Do you not remember his saying that a court may be worse than corrupt, that it may be inaccessible from its expense?—The gentleman to whom I allude refused to defend the cases, and came to me to complain of the great hardship to which he was subjected. I said that I understood he had been very much in favour of Europeans conducting all their proceedings in the Supreme Court; he said, "But nothing of this sort, I was not prepared for anything of this kind."

9137. We have it in evidence that many Europeans are deterred from going out to India and investing their capital there, or from remaining in that country, by the unsatisfactory manner in which justice is administered, and by the state of the police; it did not, at any rate, deter these foreign gentlemen?—No, not at all.

9138. Do you not remember that Mr. Larulletta had his nephew out from Spain?—His brother came out to join him, and he collected his relatives about him.

9139. As to the means of transit in the districts with which you are acquainted, as to the state of the roads, and the state of navigation by rivers, have you any information to give to the Committee?—In some of the districts the mode of transit was entirely by water. I should think that in Furreedpore you would have had great difficulty in getting a single cart; there was no such thing at one time; and there were very few roads, but there was water communication, more or less.

9140. And sufficient communication?—I do not see how you could have improved the water communication, for the rivers were very deep and rapid, and any tampering with them would have been very dangerous; it might take away the whole tract of country; it is all rich alluvial soil, which is easily carried away; there was no complaint of a want of communication there.

9141. What was the state of the Nudya rivers when you went there?—At certain seasons of the year there was great difficulty in passing through them. There was a European superintendent under me, and all was done that could be done to deepen them, but I have been told that they have been filling up, very rapidly, since I left that part of the country.

9142. What is your experience with regard to the integrity and trustworthiness of the native judges?—They varied very considerably; some of them were very fair, and with others I was not altogether satisfied; but I cannot say that I am one of those who think that they answer the expectations that were formed of them. For my own part, I did not form a very high opinion of them; they were very useful, no doubt, inasmuch as they got through a great deal of business, and with very considerable rapidity.

9143. Do you not think that the only prospect of making them fit to perform their duty was to try them, and to employ them?—Certainly; but I do not think that they hit upon quite the right class of people in all cases. They took those who had passed an examination in Calcutta, and they sent men up to fill situations in the Mofussil for which they were not, in other respects, qualified. A man could pass that sort of examination which they required, yet when he came to be tried, he was not always found to be fit to perform judicial duties. He may have been a tolerable vakeel, or barrister, in the lower courts, but he made a very indifferent judge.

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9144. What has been your experience with regard to the police?—It would be difficult to praise the police highly, but at the same time, I think that very unreasonable complaints have been preferred against it. In Kishnaghur and elsewhere our houses were left entirely open, with silver dishes and other valuable articles lying about without any guard, without any window being closed, or any precaution being taken. If Europeans were asked, they would state that their houses were singularly open to depredation, but that robberies were very rare.

9145. Mr. *Villiers*.] That is in favour of the honesty of the people, is it not? To a certain extent, it is.

9146. *Chairman*.] How do the poor fare under the police system?—The police may have been corrupt; I do not say that they were not often corrupt in dealing with the lower orders, but, upon the whole, I think they were better than has been represented.

9147. Mr. *Mangles*.] The character and conduct of the police depended very much, did it not, on the character and conduct of the magistrates?—Yes; the police were singularly successful in some cases in the detection of crime.

9148. In Thuggee, the extra police were successful, were they not?—Yes; I was the first magistrate in Bengal who ever succeeded in procuring the conviction of river Thugs, and that was done without the assistance of any additional officers.

9149. Were they river Thugs?—Yes. The first beginning was made by me; I procured the conviction of 30 or 40.

9150. That, I understand you to say, was done through the instrumentality of the ordinary police?—They were not at first employed; I did not employ the police; I used the services of one officer and some people belonging to the magistrate's court; if I had employed the police it would have spoilt all.

9151. It would not have done to accuse a man in the then state of knowledge of the subject, and it would not have done to direct the police to make inquiry into the matter, before we had sufficiently laid the train. I first caught them embarked in a boat for the purpose of murder and robbery; the publicity which would have been occasioned by a regular investigation by the police might have spoilt all.

9152. Being a secret society, it was necessary to carry on your operations in the same secret way?—Yes; just as you would employ a detective here in an extraordinary case of crime.

9153. It has been said that the only effect of increasing the salaries of the police has been to render it necessary to increase the amount of bribes; what is your opinion upon that subject?—I should think that that is not so; but, at the same time, there is a certain current of corruption which runs through all the native habits and opinions.

9154. The fact is, that Government cannot get better instruments than the people will supply?—That is exactly the fact; and the very people who come and complain of the gross misconduct of the police, would, if they were put in a similar situation, be themselves just as bad, or worse. I am speaking, of course, of the natives.

9155. What would be your opinion as to the advantages of having European superintendents over the police?—I think that that would be a decided improvement, if you could afford to pay them. The question of expense is the only question which raises any considerable difficulty.

9156. Would it be safe, in your opinion, to trust that class of Europeans at a distance from a magistrate?—I think it would be quite as safe as it is to trust the people you are at present obliged to trust.

9157. Would they not be more likely to be oppressive than otherwise?—No, I think not; they might be very partial occasionally; but I am speaking of the lower class of Europeans; I am supposing you would employ people who would answer to sergeants, or people of that description.

9158. What is your opinion of the degree of knowledge of native languages possessed in your time by the civil servants of the Company?—My opinion is that they were quite efficient; no person can efficiently discharge the duties who does not understand all that is said before him.

9159. Are you a Bengalese scholar?—Very fair; latterly I understood everything that was said and written, and I could translate it into English almost as fast as it was read.

9160. Could you yourself read Bengalese?—I could read the written character very

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very well; I could read ordinary written documents; but the evidence is taken down in such a hurried way that I never tried to read that, and probably I could not have read it if I had tried; I could read particular parts.

9161. You could read a portion?—Yes.

9162. And could you read Hindostanee?—Yes; I could speak both languages, and Bengalese too; that language, perhaps, I understood better than the other at last, because I had more practice in it.

9163. Persian was at that time the language of the courts, was it not?—Yes, that was the language used in all written documents, and in all pleadings.

9164. In your time was there any discouragement of English settlers either by the Government or by its officers?—I think not. Where indigo cultivation largely prevailed, it was a question whether it was desirable to have so many Europeans as we had; in fact, the cultivation was inadequate to maintain the number of factories that wished to subsist on it; there was not indigo enough for the factories; but I speak of a time when the high prices prevailed, and when they forced cultivation on to a great extent, and, possibly, some of the outcry may have been raised on that very ground.

9165. Mr. *Villiers.*] To what period are you now referring?—To a period 20 years ago; there were very high prices at one time, and then they forced the cultivation of indigo to a most unnatural extent.

9166. Mr. *Mangles.*] Had you ever any occasion to think, when you were there, of the opening that there was for the employment of European capital and European intelligence?—I cannot say that I had. I was very glad to see it employed in the cultivation of sugar, and I dare say in cotton it would be very beneficial, if it were possible.

9167. Do you think that injustice and inconvenience result to the natives of India from the exemption of Englishmen from the Mofussil courts?—Of course, it scarcely seems fair to the people of a country to set down a particular class of the community among them, and say that that class shall not be under the same laws as others are; but in the present state of the country I should doubt the propriety of putting Europeans under precisely the same system.

9168. But still the exemption did operate unjustly towards the natives, did it not?—I should think that an intelligent native would have thought so; but, just at present, there would be good reasons for not doing it to any great extent.

9169. Do you remember the celebrated case of the murder in Kishnaghur?—Yes; an Englishman, named Young, was tried for the murder, as far as I recollect (but I was not there at the time), of an assistant to an indigo planter of the name of Dick; Mr. Dick was an East Indian, and Young was a European.

9170. What were the circumstances of that case?—The natives were tried in the Mofussil Court, and were sentenced to five or seven years' imprisonment, whilst the European was acquitted in the Supreme Court. Of the murder, I believe, there was no doubt; the man was not seen again, and never has been seen since.

9171. There was no moral doubt, was there, that Young was the murderer?—Not the least; he did it in the presence of a number of people. The evidence was singularly clear; but the fact of the body of the murdered man not being found threw doubts upon the case.

9172. Mr. *J. B. Smith.*] How long ago is it since this murder was committed?—I should think it is 25 years ago.

9173. Mr. *Mangles.*] Now, about the introduction of the English language into the Mofussil courts; what do you think of that?—I should think that it would be altogether impracticable, at least, it would have been impracticable when I was there; it would have been very unsatisfactory to the natives; they would never have been pursuaded that the language used was correctly translated, and, even if it was, I do not see how a judge who had no acquaintance with the language could ever form a satisfactory opinion on a difficult case.

9174. What do you think of employing barristers from England as judges in the Mofussil courts?—If a barrister understood the language, and qualified himself by long residence in the country, he would probably make a very good judge; but he must, first of all, do that; and he must give up his knowledge of English law, to a certain extent, as a knowledge of that law would be of no use in a place where it does not prevail.

9175. As a general rule, do you think it would be a good plan with a view to forming good administrators, that they should enter the service from the bottom, as very young men, and be trained, gradually, upwards?—I think so, most assuredly.

9176. You think that the system of appointing young men as apprentices, in the first place, and engaging them for their whole lives, starting from early youth, is a good one?—I have no doubt whatever of it.

9177. *Chairman.*] You think, do you not, that a previous education in jurisprudence would be an additional advantage to them, supposing they had all these other qualifications that are required for the service?—To a certain extent, any knowledge of it, certainly, must be useful; but I do not think it is at all comparable to the knowledge they might acquire by residence, and early training in the country. The system of education that was pursued at Haileybury comprised, to a certain degree, a legal training; not very much, certainly, but we had at Haileybury, as professors, very eminent lawyers.

9178. Has it not been the opinion of enlightened foreigners who have travelled in India, and has it not excited their surprise that jurisprudence is not made a portion of the early training of English officials?—I never heard any opinion expressed on that subject, but it was taught at Haileybury; it was a branch of instruction there, though it was not followed up as much as it might have been.

9179. Mr. *Mangles.*] Were there not eminent lawyers at Haileybury as law professors?—Very much so; Mr. Empson was a singularly able man.

9180. And his predecessor, I think, was Sir James Mackintosh?—I believe so.

9181. Do you think that a knowledge of the habits, manners, and trades of the people, and of their feelings, is essential to qualify a man satisfactorily to perform the duties of the judicial bench?—I should say so.

9182. And can that knowledge be so well acquired in any other way than by rising from the situation of an assistant to that of a joint magistrate, from a joint magistrate to that of a magistrate, and from a magistrate to that of a collector?—I should say not.

9183. Is not the best training for the judicial bench that which a collector goes through?—It is a very good training, but I think that the instruction which they got when they acted as registrars of the courts was of very great use to them.

9184. Does not a collector in making settlements and divisions of estates, and performing duties of that sort, necessarily acquire a great knowledge of the habits, institutions, and feelings of the people?—Yes; and he also acquires a great amount of judicial knowledge; he has certain judicial matters to investigate.

9185. When you hear it stated that men are put upon the bench who have never filled any judicial office, is not that a mistake arising from ignorance of what a collector has to do?—There can be no doubt that many questions that a collector has to decide are judicial questions.

9186. Do not suits brought by ryots to replevy on distraint, suits arising out of the sale laws, cases as to the division of estates, cases of boundary, and other cases of that kind, all involve strictly judicial questions?—Undoubtedly.

9187. And a collector's assistant has to decide all those questions, has he not?—Yes.

9188. And are not many of those the root, as it were, of some of the most important questions that come before the civil courts?—Yes.

9189. Appeals from the collectors, for instance?—Yes; but still the training which a young man formerly received when acting as registrar was of great use to him.

9190. Mr. *Smith.*] The opinions which you have given about the police and the courts of justice in India have reference to a period 20 years ago, have they not?—Certainly; not, perhaps, quite to that period, because I was a criminal judge for two or three years before I left India 13 years ago.

9191. You have no knowledge of the state of the police at present?—No, I have not.

9192. Do you know Mr. Halliday?—Yes, I am acquainted with him.

9193. He is the Lieutenant-governor of Bengal, is he not?—Yes.

9194. Is he not about the highest authority we could have on any subject relative to Bengal?—I am certain that my experience in the police was greater than that of Mr. Halliday; he was a comparatively short time only in the mofussil.

9195. But he is there at present, is he not?—Yes.

9196. Are you aware of a minute recently made by Mr. Halliday, in which he states that if all the village chowkadars were put in prison, he believes the country would

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would be more free from crime than it is at present, or something to that effect? —Mr. Halliday may say so perhaps, but if he does, I should not be disposed to agree with him.

9197. You do not consider him a good authority upon that subject?—I can only speak from what I know myself.

9198. You consider that your experience of India 20 years ago is to be preferred to that of Mr. Halliday, he being now Lieutenant-governor of Bengal?—I have said nothing of the sort; what I said was, that I was longer employed in that branch of the service than he had been, and I have spoken to what was the state of things at the time I was there; I know nothing, and have pretended to know nothing, of the present state of the police.

9199. Do you suppose that he would have ventured to make a minute of that kind without having a good foundation for it?—No; he may have had foundation for it; I do not mean to dispute his authority at all as to the present state of the police.

9200. Mr. *Villiers.*] I think you have said that the character of the police very much depended upon the magistrate or the judge?—I should say so; a very good magistrate would be likely to have a good police, and an inefficient magistrate would be likely to have an inefficient police.

9201. So that it is possible that in your time, owing to the superior character of the magistrates, the police were better than they are now?—They may have been better; I do not say that they were, for I am ignorant of the present state of affairs there.

9202. But as far as your experience goes, the efficiency of the police would depend very much upon the character and conduct of the magistrates?—No doubt.

9203. You say you were specially employed to put down Thuggee?—I was the special judge for the trial of all charges of the crime of Thuggee committed within the lower provinces; the parties charged were apprehended by military officers, and were made over for trial to one judge specially appointed for that purpose.

9204. In those cases, therefore, you did not depend upon the police?—No; the military officers had men of their own; they may have employed the Mofussil police to some extent, and no doubt they did, but they sent out their own people to apprehend the parties charged.

9205. I suppose you were chiefly engaged in the judicial situations you have mentioned?—Yes, entirely.

9206. And therefore you would not wish your opinions to be quoted as being of any great authority in reference to the success or satisfaction which attended the employment of capital in indigo planting?—No; of course those who have paid more attention to the subject than I have done are much better authorities upon that subject than I can be.

9207. And the opinions which you expressed, when Mr. Mangles first examined you, were probably founded on what you had as general rumour, rather than on anything you yourself knew with regard to the particular business of indigo planting?—I do not quite understand to what particular question you allude.

9208. You stated that great success had attended the planters, and that there had been no complaints on their part of the difficulties which they had to encounter in pursuing their business?—I spoke of two or three foreign planters who were understood to have made fortunes; their success was a matter of notoriety; it was well known that they were, to a certain extent, successful, and that they became rich men.

9209. But as to contradicting the evidence we have had before us with reference to the difficulties and obstacles which indigo planters meet with, you would not wish to do anything of that kind, or to express any very decided opinion upon the subject, would you?—No.

9210. You were not brought very much into communication with English indigo planters when you were there, were you?—Yes, unfortunately, I was for three, or four, or five years in the indigo districts, and I had considerable experience of the quarrels that occurred there.

9211. Their quarrels arose from differences among themselves, did they not? —Yes; partly from differences among themselves and partly from an unwillingness on the part of the ryots to cultivate indigo on the scale the planters desired they should cultivate it.

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9212. I understood you to say you do not object to men being qualified for the judicial office if it were possible for them to be so qualified; do you attach great importance to their being acquainted with the habits and manners of the people?—It would be an additional recommendation, no doubt, and a very great one.

9213. A man might have been for any length of time in the country, and might not know anything of the case, might he not?—Yes, he might certainly.

9214. And he might be acquainted with the habits and manners of the people?—He might.

9215. And you would see no objection to their being subjected to some test in order to see whether they are qualified for a judicial appointment, if they should be appointed to it?—It is difficult to say what test you would propose; any knowledge of law would be of use to them, even if they were to administer the Company's law; it is of course an advantage to a man to know English law, because it must tend to inform and improve his mind and his ideas.

9216. It would be of great advantage, would it not, if he had ever practised as a lawyer?—I dare say it would.

9217. In the cases to which you have referred, where, as collector, or as parties in some way connected with the revenue, have had to decide points brought before them, they have not sat judicially, I suppose, having advocates on each side, and having nicely to weigh the evidence given by both parties?—In some cases they have.

9218. They have sat regularly as judges?—Yes; but they have not been attended by recognised pleaders.

9219. Is it usual to hear oral evidence, or do they decide cases on documents?—In almost all cases evidence was required; it would vary in different cases; in some cases the evidence was taken before the agents of both parties, who signed it, and agreed to it, they putting their own questions to the witnesses; it was then read over to the collector, and he decided upon that which both parties agreed to be the evidence.

9220. You have stated that the evidence was taken down hastily, and read so rapidly, that you sometimes had a difficulty in following it?—No, I never said that; I said it was written down so hastily that it would be difficult for a person not accustomed to that particular character to read it.

9221. Mr. *Mangles*.] Does it not sometimes happen that a day or a week afterwards a native would not be able to read that which he had himself written?—They write it down so hastily, in order not to take up too much time, that it is not easy to read it. If you were to take another native out of the same office, he probably would find a difficulty in reading it.

9222. Mr. *Villiers*.] Do you mean that the evidence which is received in the courts is always documentary?—No; it is oral, a great part of it.

9223. On what occasions is it that you receive written evidence?—The written evidence that I allude to was merely evidence in the extra-judicial cases, which were conducted before the collector. The evidence was taken close to the collector or magistrate. The agents of both parties asked any questions they wanted to ask, and the evidence was read over afterwards.

9224. Is there any cross-examination, when the evidence is taken in that way?—Yes.

9225. I do not quite understand the form of proceeding; the evidence, you say, is first taken down; is it then read to the collector?—Perhaps; a witness comes into court when another case is going on, and it is not convenient to take his evidence then. Perhaps the case is one with reference to some dispute about land or rent. The agents of the parties will have the evidence of the witness taken down by the regular officer, and it is afterwards read over in court, the man having been first sworn to it; that, however, is only done in trifling revenue cases.

9226. Has the party who is opposed to the witness who is giving evidence an opportunity of cross-examining him upon the evidence which is so taken down?—Certainly.

9227. *Chairman*.] Is the evidence taken publicly?—They are summary suit cases; suits for the recovery of the rent, and so on, which are heard in open court.

9228. Mr. *Villiers*.] Had you ever to decide cases of that sort?—An enormous number.

9229. In what capacity?—As assistant to the collector.

9230. In

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9230. In what language was all this done?—It was done in the language of the country; in Bengalee in Bengal, and in Hindostanee in Hindostan.

9231. Where were you as assistant-collector?—In Jungle Meheals.

9232. In what language were matters brought before you?—In Bengalee.

9233. And did you understand that language?—Yes, perfectly; at first it was in Persian; that was the language which was in official use when I first entered the service, but even then part of the evidence was taken in Bengalee.

9234. You were at Haileybury, were you not?—Yes.

9235. And you learned Bengalee before you went out, I presume?—Yes.

9236. Did the natives generally speak Bengalee?—In Bengal; but there are instances in which natives in Bengal cannot speak its language.

9237. Is it the language in which documents are written?—They were written in Persian then; at present they may be written in Bengalee.

9238. Then, any person who did not know the language, would be quite incompetent to fill the situation which you filled, would he not?—I cannot see how he could have filled it with any satisfaction to himself.

9239. Does it not constantly happen that the natives do not understand this language?—Some of the Mahommedans could speak Bengalee, but could not read it.

9240. What does the judge do when he sees that parties do not understand the language in which the proceedings are conducted; does he direct them to be interpreted?—I never had a case before me in which the plaintiff or defendant did not understand the case, as it was tried before me.

9241. But there are varieties of languages, are there not?—There are different dialects in different parts of the country, but they all resemble one another.

9242. Do I understand you to say that they have more faith in an English judge than they would have in a native judge?—I should say so, certainly.

9243. Why would they mistrust the proceedings in a court if they were conducted in the English language, supposing them to be interpreted to them?—They would not feel sure that they were correctly interpreted, or that the judge understood the meaning of each particular phrase or expression used.

9244. You are speaking gratuitously, are you not, and not from experience; you have never seen the law administered in the English language, have you?—No, I never have.

9245. But you have known occasions on which the language used has not been understood by the people in court?—No; I did not say that. I say I have known instances of natives of Bengal who were not acquainted with Bengalee.

9246. Did you find yourself much dependant on the omlah in your court?—Not at all; in point of fact, I never had the chief officer in my court with me at all; I used to keep him out of it, employing him in the office.

9247. Were there any appeals from your decisions?—From some of them, of course there were.

9248. But there was a right of appeal, was there not?—From most of them, but not from all; not from many of them.

9247. Where was that appeal to?—The appeal lay to the Suddur Court in Calcutta, but in particular cases there was no appeal at all; where an appeal had been brought from a native judge to the judge of the Civil Court, there was no further appeal.

9250. I believe you were obliged to submit?—Yes.

9251. You do not know what degree of proficiency in the Oriental languages is now required to qualify persons for the civil service?—I do not.

9252. Did you consider that it was wise to abolish the college at Haileybury?—I should say not; young men certainly acquired a most excellent education at Haileybury; at least those who took the trouble to do so.

9253. Would it not be very useful in your opinion for civil servants to know something of English law before they went out there?—Yes; they acquired a little knowledge of English law, though perhaps too little at Haileybury. The professor when I was there, was a very eminent man.

9254. It was merely constitutional law that used to be lectured on, was it not?—It depended on the professor. He was the judge of the course of law which he wished the students to study.

9255. Mr. *Mangles*.] In different terms he took different departments of the law, did he not?—Yes.

9256. In one term he would take the law of evidence, in another the law of contracts,

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contracts, and so on?—Yes, I have no doubt that a man might have acquired there a very fair degree of legal instruction, if he had attended to it as much as he ought to have done.

9257. I suppose all that kind of knowledge is soon forgotten when people get out to India, is it not?—I think a portion of it at all events fixes itself on the mind.

9258. How long were you in India altogether?—Fourteen or fifteen years.

9259. Mr. *Vansittart.*] Are you in favour of the separation of the judicial part of the civil service from the revenue?—Do you mean as to magistrates and collectors.

9260. Would you think, for instance, that a young man going out to India should be at liberty to select whether he will belong to the civil, judicial, or revenue department?—I think that a great deal of the knowledge that is useful in the one, is useful also in the other.

9261. Supposing it should be determined to separate the revenue from the judicial part of the service, do you think it could be done with the present body of civilians?—I have been so long away from the country that I hardly know of what number the present body consists.

Alfred Clarke Bidwell, Esq., called in; and Examined.

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9262. Mr. *Mangles.*] YOU were a Bengal civil servant?—Yes.

9263. Will you have the goodness to state to the Committee, as shortly as you can, what were the principal appointments you held in India?—I went to India in 1830; in 1831 I entered the public service from college. For the first four years I filled the ordinary offices of assistant, and head assistant to magistrates and collectors; I was then a joint magistrate and deputy collector.

9264. Mr. *Smith.*] What were you in 1835?—Joint magistrate and deputy-collector. In 1836 I was appointed special deputy-collector for the examination of titles to hold rent-free lands. I was then a collector.

9265. In what year was that?—1842-43, I think. I was appointed superintendent of the revenue survey in 1846. In the meantime I came to Europe for three years. I was comptroller of the salt chokies about 1849, I think, and officiating secretary to the Board of Revenue for a year, and a Commissioner of Revenue and circuit for three years.

9266. At what time were you secretary to the Board of Revenue?—In the year 1851-52, and then for three years I was Commissioner of Revenue and circuit.

9267. When did you leave India?—In 1856.

9268. Mr. *Mangles.*] Your last appointment, I believe, was as Special Commissioner?—Yes, for the suppression of the Sontaul insurrection.

9269. Have you considered the question which has been referred to this Committee with reference to the settlement of Europeans in India?—Yes.

9270. Will you be kind enough to state what your opinions are upon that subject?—I have read the depositions of the parties who have been examined before the Committee within the last few days, and, having done so, I have written a few remarks which, I think, it would save time if the Committee would allow me to read. The colonisation of Europeans in India, in the ordinary acceptation of the term, I consider impracticable, for these reasons: the repugnancy of the climate generally to the European constitution will prevent English families taking root there as they do in Australia, the Cape, and other English colonies; and though many Englishmen manage to pass many years of their lives in India with as great a freedom from attacks of disease as they would in England, and to return to England with constitutions apparently unimpaired, yet the injury to the constitution exists nevertheless, and shows itself, if not in the parents, certainly in the frame of their offspring. The children of Anglo-Indians are generally delicate. A third generation of Europeans born in India, does, it is said, not exist. Of course a residence in mountainous districts would, to a certain extent, remove the English settler from liability to the attacks of diseases so prevalent in the plains, while it would impart a vigour to his constitution calculated to lessen the liability to attacks on visits to the plains; but there are other considerations, such as the impossibility of procuring, even in the hills, such an education for his children as England affords, a desire to remove his children from the demoralising influence of intercourse with the domestics of the country, to make them acquainted with the advanced civilisation of England, &c., which would impel the settler to return to England

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England with his family as soon as his circumstances would permit. His sons, and perhaps his daughters, may return to the land of their birth, but not to settle, to make a competency, and return to England as their father did before them. I do not think it impossible that the European may settle in the mountainous parts without greatly degenerating for some years, but the degeneration would certainly show itself eventually in a marked degree. I think that the children of the English soldiers in India might with advantage be educated in the hills, and employed by Government in various departments of the State service, in the revenue, judicial, and police. They would carry to the work a superior knowledge of the native character, language, habits and customs, than an imported Englishman would easily acquire, and exhibit a much higher standard of morality and principle than the class of natives ordinarily employed in the inferior duties. The example, too, would have a beneficial effect on the character of the natives around them. The children thus reared in the the hills would no doubt be readily engaged, as soon as their age qualified them for the duty, in superintending the operations of capitalists and in developing the resources of the country. At the same time, it must be remarked that the Englishman will always be inferior to the native in acuteness, intelligence, and knowledge of the native character; his superiority will consist in his greater energy, decision, and honesty, though I have sometimes heard it stated, indeed, know it from good authority, that the honesty of European policemen is not unassailable. The other obstacles to the settlement of Europeans in India are the discomfort and injury to health attendant upon a life in the tropics, and the character of the people. The Government offer no obstacle to the entrance of Europeans. Mr. Theobald stated before the Committee that the Europeans complain of a want of roads and improved internal communications; they ask for increased security for life and property, and such an alteration in the land-revenue system as will enable capitalists to obtain a commensurate return for their outlay. On this I remark, that no one who has not visited the interior of the country can form any idea of the extent to which the climate of Bengal operates in preventing and retarding the construction of roads and communications. The violence and continuance of rain and inundation, destroys a road which would have lasted years in a European climate. At the same time I think that this point has been greatly neglected within this last 25 years. The Supreme Government have been obliged to refuse the sums required for the due repairs and construction of the great lines (except the trunk), and a construction of the Sudder Court has stopped the practice which prevailed on the part of the magistrates of obliging the zemindars to repair the small lines. As regards security to life and property, there was, until this last outbreak at least, certainly no country in the world in which a European, at any rate, was so secure from violence—the same as regards his property from *open* violence. The attacks to which it is open are the way in which the law of the country is made use of in withholding the restoration of property, or rather the weakness of the law in enforcing contracts and agreements. This weakness of the law arises from the low standard of morality in the character of the native; in his inherent cunning and disregard of truth, his cowardice, and his utter want of public spirit, and the wonderful acuteness which he displays in evading a law, and turning its provisions against his adversary. The police department is more dependent for efficiency than any other upon the integrity of its subordinates, and is, in consequence, more inefficient than any other. So great is the power necessarily entrusted to the darogah, or detached police officer, that, as stated by Mr. Watson, the managers of large concerns have frequently found it worth their while to pay him a sum far exceeding his Government pay, in order to keep on friendly terms with him, and ensure his aid and countenance. It is stated, that when this was not paid, the factory was shut up; but it might be asked, if the management of the factory was not, to a certain extent, arbitrary and odious to the natives; that when the purchased connivance and support of the police officer was understood to be withheld, the concern collapsed through the dislike of the native *employés*. It may be safely asserted, that if the management was popular with the natives concerned, the thing would have gone on independently of the support of the police. Some allowance is, I think, to be made for the Englishman who attempts to carry on trade with the natives of Bengal; their native acuteness and tendency to fraud and chicanery is such, that he meets them at great disadvantage in ordinary circumstances, and he is therefore too often compelled (he argues) to meet them with their own weapons, and to allow his *employés* to descend to means of obtaining his rights, which he would blush to acknowledge in Europe. At the same time this is not obligatory; there are well-known instances of Englishmen as well as foreigners (certainly of superior administrative capacity) so managing indigo and other concerns as to obtain the highest reputation for fairness and benevolence amongst the native community around them, and to enjoy the confidence and esteem of the European officers; the planters know the character of the individual European officers, and from the same native source the civil servant is fully acquainted with the reputation borne by each leading planter. With regard to the statement made before the Committee that the civil servants are unacquainted with the language of the country, I have these remarks to make. The statement is certainly erroneous. The young civilian just released from college, and deputed to a distant district, finds, of course, the country dialect different from that in which he has received his grammatical instruction; but he learns in a month thoroughly to understand what is deposed to before him. He may not be able to discuss a deep philosophical question, but he can convey his decision, and the reasons for it, in intelligible language; and he certainly is not dependent on his omlah, or any other interpreter, for the meaning of what is said by the witnesses before him. The late rules for the examination of young civilians require a much higher standard of practical acquaintance with the language than was requisite before, and it is impossible now that the state of things described by Mr. Freeman should exist. As regards being under the influence of his omlah, the magistrate, as a rule, is not so; he is constantly cautioned against it. On the other hand, the indigo planter is very much at the mercy of his *employés*, who are from the same class, for this very reason, that he is never put on his guard as the civilian is, and is unable to resist the wonderful tact and ability which natives exhibit in obtaining influence over their English employers.

9271. Have you known personally any foreign gentlemen engaged in indigo or silk works, or any other works?—I have known one or two, M. Courjon and his assistants, who were Frenchmen, and Mr. Laruletta; those were the only ones I can at this moment remember.

9272. Had not Mr. Laruletta a nephew of the same name?—He had a nephew; I forget his name.

9273. They were entirely subject to the Mofussil Courts, were they not?—They were exactly on the same footing as a native.

9274. Did you ever hear them say that they could not carry on their business satisfactorily on account of the native police?—No; but they often, I think, made the complaints which even natives ordinarily make of the state of the police.

9275. Englishmen assert that they could not live in India if they were subject to the native courts, but these European gentlemen not only lived, but throve there?—Yes; M. Courjon was one of the most successful Europeans that ever settled in India.

9276. Why could not Englishmen, if they were subject to the native courts, get on as well as these foreigners?—I think they could, if they would adapt themselves to the circumstances of their position as readily as foreigners do; but Englishmen never do that. When they visit foreign countries in Europe, they do not accommodate themselves to the institutions and customs of those countries as others do.

9277. Did you ever hear either of the Messrs. Laruletta or Courjon complain that they suffered indignities or hardships?—I never heard them complain of the difference between their position and that of Englishmen.

9278. Did they ever complain that they were subject to any indignant or ill-usage in consequence of being subject to the Sudder Ameen's Court or the Mofussil Court?—No, not to my recollection. But I was not in the same district with M. Laruletta.

9279. Or did they ever complain of the magistrate or judge?—No; there was the usual grumbling; I heard them find fault occasionally, but I never heard them make any complaints of their own position.

9280. They never told you that they could not carry on their business in consequence of their being subject to the Mofussil Courts?—No, because they knew that I was well aware that M. Courjon was carrying on business most successfully; they may have complained of the difficulties they had to contend with, in

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consequence of the fraud and deceit inherent in the native character. They were very intelligent men themselves.

9281. I think that Mr. Wise, who has given evidence before the Committee, lived much in the same district as Messrs. Courjon?—He lived in the adjoining district, and he was also concerned in managing the estate of the rajah of Tipperah, in which district M. Courjon lived.

9282. Mr. Wise has spoken of the utter impossibility of Englishmen getting on, if they were subject to the Mofussil Courts?—He had forgotten the instance of M. Courjon, I suppose, with whom he was well acquainted, and with whom he had suits and quarrels.

9283. What is your experience of the native judges generally?—I have not been in the judicial department myself, but of course I have had occasion to hear and see a good deal of them, and to hear the opinion expressed by others with regard to them.

9284. What is that opinion?—I think the judicial department has very much improved of late years; 20 years ago they had a bad character; they were not considered trustworthy; great pains have since been taken by the Government to improve the civil courts, and now I think their character stands very high. I do not hear now of complaints, or of doubts of the honesty of the native judges; there may be doubts of their impartiality, but not of their honesty; I have heard natives say that they would much rather have their cases decided by an English judge, than, for instance, by the principal sudder ameen under him. I have said, "Why surely the principal sudder ameen, your countryman, must understand the case better, and his character is above suspicion." "Yes (the native would say), "he is honest; he will not take bribes, but he is not so impartial as the European judge is." The native judge is often biassed by family considerations, or he is perhaps a very religious man. One man who bore a very high character was a very strict Hindoo, and it was said of him, that a rich man would not get a fair chance; that his religious views acted so strongly on his mind, that the poor man would have an advantage over the rich man.

9285. Some of the witnesses have said that, in their opinion, the best mode of improving the natives would be to employ Europeans in almost every office of trust and emolument, in order that the natives might profit by their example; do you think that the system of employing the natives, and allowing them to work themselves pure, is the better one?—I think that there should be some Europeans if you can get them at the price you offer; but you cannot get many qualified Europeans, I think, at the rate of remuneration you propose. A man who has ability enough to fill one of those situations with credit equal to a native, would be able to do much better for himself than by taking that service in India.

9286. *Chairman.*] Do you think that the sons of European soldiers, educated on the hills with a special view to their employment in India, might be a useful body to have?—Yes, I think their services might be made useful; but still they would not be in any numbers.

9287. They might supply the place which you regret the want of adequate Europeans to supply at present?—They would afford a certain supply, but not a supply equal to the demand; they might be made very useful in the police generally.

9288. Mr. *Mangles.*] Would you employ Europeans more largely as principal sudder ameens, sudder ameens, and moonsiffs?—I do not think they would be so efficient as the natives are.

9289. Do you think it is possible to get a good native administration without first trusting and trying them?—No; I think the native civil administrators really very good; the moonsiffs and sudder ameens stand very well; it is the police that is so very deficient: the native judges bear a good character with the native community, who are the best judges of the matter.

9290. But some indigo planters and others we have had before us complain most bitterly of the native judges, and speak of their universal dishonesty: is that your impression with regard to them?—No, it is not my impression at all; they were more open to the charge 20 years ago than they are now; but I think that at present they are really as much to be trusted as any judges in the world, except, of course, English judges. I think the native judges in India are as good as any judges in the world out of England.

9291. There are exceptions, of course?—Yes, I am speaking of them generally; there are exceptions to every rule, of course.

9292. Then

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9292. Then you think the experiment has succeeded?—I think so.

9293. Lord William Bentinck's experiment of employing natives more largely you think has succeeded?—I think so.

9294. Have you seen anything of the native deputy magistrates?—Yes.

9295. What is your opinion as to them?—I think they are not so well qualified for that office as they are for the civil courts; I do not think as a rule that they make good magisterial officers.

9296. Then as to the police?—The police certainly require improvement very much; I think that there is a great deal to be done in the way of improving the police; there is, in my opinion, a great deal practicable that has not been done: however, I have seen some good native police officers. Some young natives of good families, who had been well educated in Calcutta, proved good police officers, or darogas. They held office in the suburbs of Calcutta, where there were Europeans as well as natives; they had, in fact, to rule over a European as well as a native population.

9297. Do you believe the statements which have been made, as to universal corruption prevailing among them, to be true?—No; certainly not universal corruption.

9298. Do you believe that the only effect, as has been stated before this Committee, of raising the salaries of the darogas, was to increase the amount of bribes which they required?—No, certainly not; in some instances it might have that effect; of course if you double a man's pay you make his situation doubly valuable, and you must increase your inducement to make him risk his situation; if his situation is worth 30 rupees a month he would take a small sum, but he will require a larger sum to induce him to risk a more valuable situation.

9299. It would be unwise, then, to increase their salaries if that would be the only effect of it?—No, I should not say that; but the foregoing is the way in which I explain in my own mind the statement which has been made to the Committee. I suppose it must have happened that a daroga, when a small bribe was offered, would say, "No, that would have done very well in former days; but my situation now is worth keeping, and I am not to be bribed by small sums."

9300. To what extent, according to your experience, are the civil officers dependent on their omlah; or are they entirely swayed and governed by him?—I think that the rule is certainly the reverse; of course there are exceptions to every rule, and there may be found exceptions to this; I think that the fact, that the officers in the service are so continually cautioned by their superiors against allowing even the appearance of this influence has such an effect upon them, that they are really free from it. I know that in my own case I took the greatest pains not only to be free from that influence, but to prevent even the appearance of it; and I would rather commit a slight error, than avail myself of the assistance of the native assistant who was at my side.

9301. Is not that feeling often carried to an almost morbid extent?—It may be; I know that the feeling is strong, and that there is no disgrace considered so great amongst members of the service as for a man to be under the influence of his omlah; it is the greatest reproach that can be attached to his name.

9302. *Chairman.*] Is that feeling more prevalent now than it used to be?—I think it has increased every year, and I think the character of the service, as an administrative body, has improved every year.

9303. Mr. *Mangles.*] What is your opinion of Mr. Grant's sale law?—I believe it was brought forward after I left India; it was under discussion about that time. I think it is a great pity that the law was not tried; I do not know exactly what the difficulty was; I believe it was this, that Mr. Grant considered that, in order to protect the interests of the Government, it was necessary to ascertain, beyond a doubt, that the value of the land to be separated from the parent estate was equal to the jumma, or revenue, which was to go with it; and the means by which he proposed to ascertain that point were considered objectionable by the Indigo Planters' Association, or the European community concerned.

9304. Has not the operation of the sale laws much improved of late years, since greater stringency has been introduced?—The new sale law was no doubt a great improvement; it left no discretion to the collector; if the revenue was not paid by a certain date, the estate must be put up to sale, and this obliged the zemindar to be punctual; it enforced punctuality, and it was a great advantage to the community

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munity to know that certain estates would without doubt be brought to sale on a certain day, and therefore those who wished to invest capital in that way might regulate their proceedings accordingly.

9305. And it was a great advantage also to the defaulter, inasmuch as it ensured his getting the best price for his land?—Yes, it had that advantage also.

9306. Were the examinations of the young civilians pretty severe?—Yes; they were particularly stringent as regards practical acquaintance with the native languages, so much so, that on one occasion a young gentleman who had obtained the highest distinction in college for his acquirements in the Bengalee language, who had received a prize in the first instance, and afterwards a medal for high proficiency in Bengalee, when he was brought before the committee for examination as to his practical knowledge of the language, was plucked because he could not readily translate an English paper into Bengalee. He had read a number of books; he knew all the words that were used in the language, and he could speak it extremely well; but he could not take up a paper and translate the English off into Bengalee. He could translate the other way with the greatest facility.

9307. Is it not a part of his examination to give him a native paper, a report of a daroga or tashildar which he has never seen, and require him to read it off, and to write an answer to it?—He has a paper in the language of the country placed before him, a written report which he is required to translate into English, and another English one is given to him, which he is required to translate into Bengalee without a dictionary, or any other assistance whatever.

9308. Mr. *Vansittart.*] You entertain a very high opinion of native officials, do you not?—Of some of them.

9309. Do you not think that the natives generally have greater confidence in a decision passed by a European than by a native?—Yes, I have stated that such is the case.

9310. Do you think it not desirable to employ indigo planters as deputy magistrates, in preference to natives?—That experiment has been tried within the last year.

9311. Has it been found to answer?—That is a point on which I am not competent to speak.

9312. You do not think that the natives are well adapted to be made deputy magistrates of?—No, they are not so well adapted to that as to the other branches of the service. I have seen them make extremely good policemen, and those men who have made such good darogas would make excellent deputy-magistrates, I should think; but as a general rule, I do not think they succeed so well in that branch.

9313. You think they would succeed better as sudder ameens and moonsiffs?—Yes.

9314. You do not think that we could get young men of good family and of good education to go out from this country and fill those situations?—No.

9315. With regard to the separation of the civil service, separating the judicial from the revenue, are you in favour of that?—No, I am not. I think the special education of the young men selected for the civil service, which, I believe, commences two or three years before they go out to India, should be more directed to the study of the principles of law; but I think that the practical experience which they afterwards acquire in the magistrates' and revenue departments is of the utmost value to them, even if they are promoted to the highest judicial appointments.

9316. In fact, then, you do not think there is any great necessity for keeping the two separate, so that the young civilian shall have the alternative of selecting either the judicial or the revenue branch?—No.

9317. You do not approve of that?—No.

9318. It has been stated to this Committee that it would be desirable to have the two branches of the service, the judicial and revenue, separate; you do not seem to approve of that?—There is a great deal to be said on both sides, but I should retain the present system, providing that a young man, before he went to India, should be better instructed in jurisprudence than he is at present, that more attention should be devoted to the study of the principles of law.

9319. Are you acquainted with Mr. Charles Raikes, the judge of the Sudder Court at Agra, and late civil commissioner with Sir Colin Campbell?—No.

9320. Probably you were at Haileybury college with him?—I believe I was.

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9321. With regard to our revenue system he thinks Government would do well to sell their land-tax to the proprietors, wherever purchasers (at 20 years' tax) can be found; do you concur with him in that opinion?—I think it would be attended with advantage to allow the proprietors to redeem the land-tax at a higher rate than you speak of; at 30 years' purchase, if he had the means and the inclination to do so.

9322. Mr. *J. B. Smith.*] Would you say, supposing a man paid 100 *l.* a year, he should be allowed to redeem as much of the public debt as would amount to 100 *l.* a year?—I am not prepared to speak to the rate, but I think that the principle might be tried with advantage.

9323. Mr. *Vansittart.*] There are many wealthy proprietors in Bengal, I imagine, who would be able to avail themselves of this offer?—Some of them are wealthy, and many would be able to avail themselves of it.

9324. Is it not the fact, that at present the needy Indian peasant pays the village banker 50 per cent. for an advance to buy seed, whilst his thrifty neighbour, who has saved a few rupees, buries them under his hut?—The rates of interest are very high in India.

9325. Would it not be desirable that Government savings banks should be established in every district, and as far as is possible, the existing system of making advances from the public Treasuries to the agricultural class extended?—There is a savings bank in Calcutta, of which the collector in every district is the agent.

9326. Savings banks do exist then already?—Yes; but they are not resorted to by the native community.

9327. Why not?—Because they can do better with their money than get four per cent. for it.

9328. Mr. *Villiers.*] When do I understand you to say you were in India first?—In 1830 I went to India; in 1831 I left the college in Calcutta for the public service; I was a year there qualifying myself in the languages.

9329. You left India in 1856?—Yes.

9330. And you have observed great improvements in various ways in the character of the public servants of late years?—I have observed a great improvement.

9331. Do you think that the system of Government is altogether improved?—I think so; I think the administration is decidedly improved.

9332. And that the men are more efficient?—Certainly.

9333. And more competent for their offices?—Certainly, as a rule; of course there were men in former days as competent as any men that can be produced now; but, as a general rule, the body of the service is more efficient now than it was 25 years ago.

9334. And have you observed that there has been an improvement in the moral character as well as in the competency of the native judges?—Certainly.

9335. You have referred to one or two indigo planters whom you knew who had been successful?—Yes; they were not British subjects, and were placed on the same footing as the natives of the country, as regards their being subject to the native courts of the country.

9336. Was one of them out there when you first went?—He was in the district of Tipperah when I was there.

9337. In what year was that?—He was there for many years; for perhaps 20 or 25 years; but the years over which my acquaintance with him extended were from 1838 to 1843, I think.

9338. You were asked whether he complained of the native judges?—I do not think I was asked that; I understood the question to be whether he complained of his position.

9339. He never had any reason, so far as you are aware, to complain of being subjected to the native courts?—No; he never complained that he was not on the same footing as a British subject.

9340. You seem to assign as a reason that foreigners are better adapted to conform to the habits of the people they live among than the English are?—I think that must be a general opinion.

9341. Was he a wealthy man?—He was a very poor man when he first went to the district, and when he left he was a wealthy man.

9342. When do you think the native judges became less corrupt than they had been formerly?—By degrees within the last 25 years. Through the improved education

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education of the natives, owing to the number of schools that have been established, the Government obtained a very superior material for their native judges to that which they could obtain 25 years ago. Almost all the moonsiffs of the present day are educated men, who know English, men who have been educated in the Government schools and colleges.

9343. You state that the opinion is, that they are not impartial, though they are not corrupt?—They are not corrupt, but I do not think the native community consider them so impartial as the European judges are; they consider them open to family or caste, or religious influence. A Mahometan might think he had not an équal chance before a Hindoo judge in any dispute he had with a Hindoo.

9344. Might it not also occur to a Christian, that in consequence of these religious biases towards family and caste, he would not get justice if he were to appear before a native judge?—I have no doubt that that would be his feeling.

9345. If so, is there anything unreasonable in his objecting to be subject to native judges?—There is nothing unreasonable in his objecting to it; but I doubt whether the Government onght to listen to his objection, as regards civil cases.

9346. But it is not merely a want of facility in adapting himself to the manners and ways of the natives, but that he has a good tangible reason for objecting to being subject to a native judge?—I do not think it is a tangible reason; I say it is an impression. I think I have said that a Mahometan would have the same feeling, and I mentioned that as a reason why all classes prefer a European or English judge. They all prefer that their cases should come before the judge rather than before a subordinate native judicial court.

9347. Who do you say prefer it?—The native community, and the community generally, because they have a greater degree of confidence in his impartiality.

9348. Do you think that that confidence would be at all impaired, if the judge were to administer justice in the English language?—I do not think that confidence in the judge himself would be impaired; but I think that confidence in the court would be impaired; they would not know what was going on. A man, when he has a case before the court, if present, likes to know what is going on; and therefore it would be, I think, a source of great dissatisfaction to him, if the whole of the proceedings were carried on in English.

9349. How would it be if there were interpreters?—He never would have confidence in an interpreter. Every man who had seen the action of an interpreter in a court, and who understands the language in which a deposition is given, and the language into which it is translated, must have observed frequent instances in which the translation has not come up to his notions of correctness. I have seen it often in the Supreme Court at Calcutta, when I have felt inclined to get up and say, "That answer is not correctly interpreted."

9350. You have actually heard an interpreter give an inaccurate interpretation?—*He* would not admit it was an inaccurate interpretation, but I should call it so; it did not convey the *exact* sense of the deposition; the turn of a phrase may make all the difference.

9351. Mr. *Mangles*.] Perhaps it is impossible to give an axact translation into one language of what is said in the other?—Sometimes it is so.

9352. Mr. *Villiers*.] What is your experience with regard to the impression made upon the minds of the natives by the mode in which justice is administered in the Supreme Court?—I think they have a very high opinion of it.

9353. They believe that justice will be done there?—Yes; but the expenses are very great; they have, no doubt, the utmost general confidence in the decisions of the Supreme Court.

9354. But the natives being an intelligent people, would they not see that getting justice is the essential part of the administration of the law?—I do not exactly understand the bearing of your question.

9355. I want to know whether the natives would be dissatisfied if the law were administered in English?—Certainly they would.

9356. But I do not understand the reason; you say there may not be an accurate interpretation, but that the native, where he has any experience of the law, being administered in English, is satisfied that justice is done; if justice is done, is not that the main point; the natives do get into that court, and have some experience of it; and I ask, if, in consequence of its proceedings being in English, such natives mistrust the law as it is administered?—I cannot speak to that point.

9357. You

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9357. You cannot give any account of the impression produced in Calcutta by the law being administered in English?—Not on that particular point; I know they have great confidence in the Supreme Court generally, but I never considered whether they had confidence in the correctness of the interpretation.

9358. Perhaps the opinion you have given that people would be dissatisfied with the mode in which justice is administered, if administered in English, is a gratuitous speculation of your own, not founded on any experience you have had, or any opinion you have heard expressed?—No, it is not a gratuitous speculation; it is founded on my own experience as a public servant in India.

9359. Is it founded on your experience of administering the law in English, because that is the question; have you had any such experience?—Of course not; the law is never administered in English, but you cannot fail to derive impressions of what the result would be.

9360. But it is a gratuitous speculation?—I do not admit that at all.

9361. Have you heard any opinions of natives to the effect, that they would be dissatisfied if the law were administered in English?—I have never put the question to them.

9362. It is merely your own opinion?—No; I do not admit that it is my own unsupported opinion.

9363. Can you give us any authority to support your opinion?—No specific authority; it is the opinion I have formed from communication and constant intercourse with the native community for 25 years in India.

9364. But is it your own opinion only?—It is the opinion I have formed.

9365. There is no apprehension on their part of English being introduced there?—No; such a question was never mooted.

9366. I understand you to say that you consider that more might have been done in the way of facilitating communications in the Bengal province?—Yes; I think the complaint has been general that until within the last four years, when a separate Lieutenant-governor was appointed for Bengal, the interests of Bengal, as regarded public works, were rather neglected in favour of the North Western Provinces. The North Western Provinces had a very active and intelligent Governor in the late Mr. Thomason, and Bengal had no separate Governor; the Governor-general was Governor of Bengal, and his time and attention were so fully occupied with his duties as Governor-general, that he had not much time left to devote to the minor interests of the Presidency of Bengal.

9367. Have you observed any improvements of late years there; and if so, do you connect them at all with the facility of communication with the mother country; and do you think that more attention has been given to the affairs of India in England of late years than was given formerly?—I think that public opinion being brought to bear upon these points in England has a favourable influence, and is attended with favourable results, no doubt.

9368. And the more public opinion can be brought to bear upon the affairs of India the better it will be for that country?—Yes.

9399. Do you think we may rely upon that in future more than upon anything else for the improvement of the people and the country?—I do not know that you can rely entirely on it; I do not think there should be too much interference on the part of the House of Commons, for instance, with the affairs of India in details; but on all such points as that of public works, I think the pressure from home exercises a very wholesome influence upon the functionaries in India.

9370. It is owing, in your opinion, is it not, to the notice taken of the affairs of India of late years in England that improvements have taken place there?—I do not know that it is owing to that.

9371. Mr. *J. B. Smith*.] You have stated that within the last 20 years there has been a great improvement in the moral habits of native judges?—Not exactly in their moral habits, but in their general efficiency and integrity of character.

9372. There has been, you think, an improvement in their integrity?—Yes, certainly; a very superior class of men has been brought into those offices within the last 20 years.

9373. Do you consider that is owing to an improvement in their pay?—No; their pay has been slightly improved, but not, I think, to the desired extent; but it is owing, in my opinion, to the extension of education. There are young men who have been educated in the Government schools, located in various parts of the Presidency, and particularly in Calcutta.

9374. Are you of opinion, that with regard to so important an office as that of a judge, one of the best means of improving their morality would be to improve their condition by paying them better salaries?—I think their salaries should be increased. That is universally admitted, I believe; but the difficulty is to find the funds.

9375. Then the Government have preferred rather to let the people suffer injustice than pay the judges good salaries?—Not having funds disposable wherewith to pay them.

9376. Mr. *Mangles.*] But their salaries have been much increased of late years, have they not?—Yes; but it is proposed and admitted by all that they should be still further increased, unless they have been increased within the last two years.

9377. Mr. *Villiers.*] I think you have said that the natives do not make good magistrates?—Not such good magistrates as Europeans.

9378. Why is that?—I do not know; in consequence of some defect in their character I suppose. They have not the energy and activity you require in a magistrate. A magistrate in India is a superintendent of police, as well as a magistrate. You want a man who, if an affray takes place 10 or 12 miles off, will get on his horse and gallop off to see what is the matter; a native will not do that. He makes a good man on the bench, but has not the personal activity which is so requisite in a magistrate.

9379. *Chairman.*] You have alluded to the occasional incorrectness of interpreters in the Supreme Court?—Very slight inaccuracies.

9380. But I infer from what you say that that occasional incorrectness does not so far impair the administration of justice as to shake the confidence of the natives in the mode in which justice is administered in the Supreme Court?—No, I think not. Still I think the natives would prefer that the judge should take the answer direct from the witness, and not through the medium of an interpreter.

9381. Are you of opinion, that even if the English language were more extended in the courts in India, it would still be desirable that the presiding judge should be versed in the language of the country?—Certainly, I think that is indispensable.

9382. But with such intimate acquaintance on the part of the judge with the language of the country, do you not think it might be desirable in certain cases, at least to extend the use of the language there?—No; I do not see what you would gain by it; the judge now, if an Englishman, must write his decision in the English language upon the spot.

9383. Do you not think it desirable, both for England and India, that the use of the English language should be gradually extended among the natives of India?—Certainly.

9384. Mr. *Villiers.*] Do they acquire it with facility?—The natives, when young, acquire it with very great facility in the schools.

9385. Are they desirous of learning it?—Very much so, because a knowledge of it opens a path to improvement in the Government service; a young man acquainted with English always has the preference, *cæteris paribus*, over other candidates.

9386. Is there any greater objection on the part of Hindoos to go into English schools than there is on the part of Mahommedans?—No.

9387. *Chairman.*] Do you think there is a kind of fashion or tendency to learn English among the natives?—Chiefly because it opens a road for Government employment. They are very glad to acquire it for that reason.

9388. Mr. *Villiers.*] We encourage the natives to learn the English language, do we not?—We endeavour to promote it.

9389. *Chairman.*] And you think that desirable wherever it can be safely done?—Yes; but of course it will be a long time before it will show itself with the millions we have to deal with, and the few hundreds we can educate every year.

Jovis, 22° die Julii, 1858.

MEMBERS PRESENT.

Mr. W. Ewart.	Mr. Danby Seymour.
Mr. Gregson.	Mr. J. B. Smith.
Mr. Kinnaird.	Mr. W. Vansittart.
Mr. Mangles.	Mr. Villiers.

WILLIAM EWART, Esq., in the Chair.

William Theobald, Esq., called in; and further Examined.

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9390. *Chairman*.] I understand that you feel yourself aggrieved by part of the evidence of a former witness (Mr. Hawkins); you think it imputes to you a degree of error which you regard as discreditable, and you wish to correct it?—Yes, I do feel myself aggrieved in that point of view, and I wish to show that there is not the error in my evidence which has been imputed to it. The evidence which I wish to support is under Question 995: that to what I wish to reply is under Questions 4182, 4183, 4184, 4185 and 4186. I had stated that the Act XVIII. of 1850 (for the better protection of judicial officers), was passed in consequence of an Armenian gentleman having brought an action in the Supreme Court against a member of the covenanted civil service, and recovered damages; and that from that time the Government and influential class of civil servants were determined to get the law of liability of public servants altered; but I did not give the name of the case (which was Gaspar *v.* Mytton, and was tried and decided in 1847–48). Mr. Hawkins, who was called to refute me, assumed that I referred not to Gaspar *v.* Mytton, but to the case of Calder *v.* Halkett, which was tried 10 years before, and decided by the Judicial Committee in 1840. Through this misconception it is made to appear that my evidence was grossly in error, and this is one of the points I wish to set right. Another point is as follows: I stated that, under the Act of Parliament by which the liability of Indian judicial officers was regulated prior to Act XVIII., the rule of English law was established, and as a barrister I ought to be right on such a point. But in Question 4186 the contrary is assumed, and Mr. Hawkins in his answer affirms the question, and says that the civil servants of the company had not that protection which magistrates and judges have in England; and moreover, Mr. Hawkins vouches Sir L. Peel in support of that opinion. Now, in reply, I beg to say that Sir L. Peel has given no such opinion. The quotation from Sir L. Peel shows that Sir Lawrence disapproved the rule of English law, and gave his sanction to its being abrogated; and in the case of Calder *v.* Halkett, the rule of English law was categorically stated by the judge who delivered the judgment, and was declared to be the rule intended by the Act of Parliament. There seems no reason (said Mr. Baron Parke, now Lord Wensleydale) why there should be more or less protection than English judges of limited jurisdiction have. Moreover, the Judicial Committee rejected the rule which has been embodied in Act XVIII., as not consonant with the intention of Parliament. I beg to add, that the correspondence between Sir L. Peel (then Chief Justice) and the Government, at the time when the proceedings in Gaspar *v.* Mytton were pending, proves that which I stated in my evidence, but which is denied under Question 4183.

9391-2. Mr. *Mangles*.] With reference to the general tenor of your evidence, and that of several of the indigo planters, who have expressed a very strong opinion as to the impossibility of living and carrying on business in the Mofussil under the jurisdiction of the Company's Courts, how do you reconcile those statements with the fact, also stated by witnesses, that Mr. Laruletta, Mr. Courjon, and several other French and Spanish gentlemen have carried on exactly the same pursuits in the Mofussil, being subject to the Mofussil courts exactly as the natives

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are subject to them, and that they have been in no way behind their English fellow labourers in success in the field which they cultivated in common with them?—With respect to the personal history and the personal experience of those gentlemen I am uninformed; but Mr. Laruletta must have gone to India a great many years ago, and his success was obtained before Europeans were permitted to settle in the country, and at a time when those connexions of which I have spoken in my evidence were common between indigo planters, civilians and members of the Government, and which enabled them to succeed even under the disadvantages of a system by which Europeans were excluded. With respect to Mr. Courjon, I think I have heard that he was for a considerable period the agent of the Rajah of Tippera, and I think that if his personal history were inquired into, it would be found that he has had peculiar advantages, and that his case is quite an exceptional one. Then, those two instances, about the history of which we know very little, I apprehend cannot be used without minute examination, which this Committee cannot go into, as counterbalancing evidence to that which has been given by some half score of gentlemen who speak from their actual experience; I cannot reconcile it of course.

9393. Mr. *Smith.*] Do you know how many years ago it is since these gentlemen who have been referred to, carried on the business of indigo planting in India?—Mr. Laruletta must have been out of business for the last 15 years. My impression is that he was out of business when I went out to India, and was the collector of the Jungypore tolls, that is, the tolls of the Nuddea rivers, and that was 16 years ago.

9394. Mr. *Mangles.*] His brother?—I do not know; if it was, he must have died, or entirely retired from business long before; Mr. Courjon has been out of India for many years.

9395. Mr. *Smith.*] How many years is it since he was a planter?—I should say he has been seven years out of India, and his business latterly was chiefly that of a zemindar; they are quite exceptional cases.

9396. When you are describing the state of things in the Mofussil, you are not speaking of what existed 15 years ago, but what exists at present?—Yes.

9397. Mr. *Vansittart.*] What is your opinion with reference to the constitution of the Legislative Council of Calcutta?—Either that the power of the Legislative Council ought to be very greatly reduced, or that its constitution should be very materially altered; I think the Legislative Council as it is now constituted is not competent to deal with the very large number of questions with which it does deal.

9398. In fact you agree probably with what the Rev. Mr. Mullens says, in answer to Question No. 7172, with regard to the Legislative Council: he says, "We have no good tribunal before which we can really bring forward the various evils which we consider to exist in the country; the present Legislative Council is by no means so open as we should like; all the members of the present Legislative Council are officials, appointed by the Government, and they are so far irresponsible, except to the Government itself, and it is very hard to get a case fully taken up in the Legislative Council, and discussed on every side;" do you concur in that opinion?—I should quite concur in that opinion.

John Marsham, Esq., called in; and Examined.

J. Marsham, Esq.

9399. Mr. *Mangles.*] WILL you state to the Committee how long you were in India, and what has been your experience of the state of things in Bengal?—I was more than 30 years in India; I have travelled through the greater part of the North West Provinces, but I resided chiefly in Bengal; I established the first native newspaper.

9400. Mr. *Vansittart.*] Will you mention the year, if you please?—One thousand eight hundred and eighteen.

9401. Mr. *Gregson.*] In what language was that newspaper published?—It was a native newspaper, published in Bengalee; that brought me in contact with the natives more particularly, and enabled me to ascertain their opinions upon every question of public policy. I was for 18 years the editor of the "Friend of India," which led to an extensive correspondence with both Europeans and natives, and with gentlemen both in and out of the service; it also gave me an opportunity of obtaining the most accurate information upon all questions of public policy and internal government.

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9402. Mr. *Mangles.*] You have, I believe, a very perfect knowledge of the Bengalee language?—Yes.

9403. You speak it and read it as familiarly as you do your own language?—Quite so.

9404. And write it also?—And write it also.

9405. What is your opinion of the character of the native judges; do you believe them to be so universally venal as they have been described to be by some witnesses who have been examined before this Committee?—I have not attended to the evidence that has been given, except having read that of Mr. Freeman and Mr. Mackenzie, and Mr. Theobald; but I am not prepared to concur in what they have advanced regarding the character of the native judges. When Lord William Bentinck established the system in 1831, the native judges were exceedingly deficient in almost everything that was necessary for the management of public business; but every effort has been made by the Government since that time to improve the service by enlarging their powers, by increasing their pay, and by promotion from one grade to another, so that no individual is appointed a principal sudder ameen (that is the highest grade of native judge), unless he has served for several years as a sudder ameen, and before he becomes a sudder ameen he must have served for eight or ten years as a moonsiff, which is the lowest grade; and he does not attain these higher grades without an examination, and without having established his character with the officers of Government; the Government therefore have made every exertion during the last 25 years to improve the character of the native judges; and I think that to a very considerable extent they have succeeded in doing so.

9406. *Chairman.*] Have they done so in that part of Bengal to which the evidence to which you have referred as given by Mr. Theobald, and Mr. Freeman, and others, relates?—Yes; those exertions have been made more particularly in what is called Lower Bengal, or Bengal proper.

9407. Do you think that these improvements might be carried still further?—It is impossible to say that the system does not admit of improvement; but I think the Government have most conscientiously and most energetically made every exertion that they thought would issue in giving the natives of the country the very best judges that could be obtained.

9408. Mr. *Smith.*] Do you think that the Government have been sufficiently liberal in their salaries to the judges?—The Government have gradually increased the salaries of the judges; but it may still be a question whether a principal sudder ameen, who receives 750 rupees a month, ought not to receive a higher sum, as many have proposed, and be placed on an allowance of 1,000 rupees a month.

9409. Mr. *Mangles.*] Several of the witnesses who have been examined before this Committee have recommended a much larger employment of Englishmen in these courts as judges, to the exclusion, *pro tanto*, of the natives of the country; do you think that that would be just, or proper, or wise?—I think it would be exceedingly imprudent to exclude the natives of the country from every object of ambition in their own land. It is utterly preposterous to think of governing 150,000,000 of people, excluding them from every prospect of rising to stations of responsibility and distinction in their own country. This was the ground upon which Lord William Bentinck founded the system he established in 1831; he said we had most egregiously failed in popularising our administration, by confining it entirely to European agency. I may perhaps be allowed to mention, that the exclusive employment of European agency dates from the year 1793.

9410. On the introduction of what is called Lord Cornwallis's system?—Yes; Lord Cornwallis determined to carry on the government of the country entirely through the means of European officers, and, consequently, no native received an allowance beyond 50 rupees a month; and it was this system of Lord Cornwallis's which was at the time extolled by almost all the statesmen of England, as well as in Asia; by Lord Wellesley, by Mr. Pitt, and by Mr. Dundas. At the end of 30 years we found it had entirely broken down, and that it was absolutely necessary to qualify the natives to assist in the administration of justice, and to open suitable situations and prospects for them in their own land. It is from the date of Lord William Bentinck's system of 1831 that the Government have largely engaged the services of natives, and have been employed at the same time in endeavouring to qualify them by means of education for the responsibilities thrown upon them. I think that it would be absolutely impossible, as well as

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unjust, to rule 150,000,000 of people, and yet deny them every office of distinction and responsibility in their own land.

9411. In fact, then, since Lord William Bentinck's time, the European district judges have been employed mainly as superintendents and supervisors of the administration of justice by the natives rather than as administrators of justice in the first instance themselves?—Almost entirely so; I believe that in some instances the civil and sessions judge has the right of taking up certain cases himself; but the initiative of all cases is now thrown into the hands of the natives, and the costly European agency of the civil service is employed exclusively in supervising the whole system, and in hearing appeals from the decisions of the native judges.

9412. And you think that the system of employing that necessarily expensive agency is wise and proper?—The only mode in which, I think, you can carry on a system of jurisprudence in India, is that of employing native judges to take the first stages of a case and European judges to superintend them, to control them, and to hear appeals from them.

9413. The witnesses to whose evidence I have referred have stated their opinion to be that the value of the example of the superior morality of Englishmen, employed as they recommended, would be such as to give to the native population an advantage over the system of giving them employment in the first instance; are you of that opinion?—That is so entirely novel an idea, that I have never thought of investigating it.

9414. Do you believe it is possible to teach boys to swim without allowing them to go into the water?—No, I do not think it is possible to do that; the influence of their example might be felt, I suppose, by the great body of the suitors; but the exclusion of natives from offices of distinction, in order to put in Europeans, would justly be resented by the upper classes of society, and would tend to create a degree of dissatisfaction that we should find it exceedingly difficult to manage.

9415. And it would not be compensated for, in your judgment, by the effect of examples?—I think that dissatisfaction, certainly, would not be compensated for by any influence that might be exerted by the example of European judges.

9416. Then you agree with Lord William Bentinck, and with those who are of his school of opinion, that the best way to improve the natives of India is to place them in offices; to superintend them carefully, and, it may be, jealously; to watch them well; to have an appeal close behind them, as it were, and, in that position, to try them and to trust them?—Yes.

9417. And you believe that that system, although there have been occasionally lapses, and individual instances of failure, has, upon the whole, worked well, and is working well?—I think that the system has been gradually improving. When it was first established there were a good number of failures, and it was necessary for the Government to make examples of the natives who had failed in their duty, either through ignorance, or through corruption; I think, also, that the native judges have, perhaps with considerable exceptions, shown themselves to be not unworthy of confidence.

9418. But were not such failures, in the first instance, to be expected from the moral condition of the people?—Yes; but I cannot say that the moral condition of the people has very much improved.

9419. Not the moral condition of the upper classes, from whom such judges are taken?—The judges now appointed are generally men of a much higher class of society than those who were first appointed. When the office was first created, the Governor-general had no option but to take the sheristadars and other officers who had had great judicial experience, but who had grown up amidst the corruption of the courts from their very youth; gradually those men have been weeded out, and men of a superior class of society, and of a superior rank and standing, have been appointed; so that we have now in the ranks of the native judges and magistrates members of the very first families in Calcutta; and just before I left India, an application was made to the Governor-general by the grandson of Tippoo Saib for an appointment as deputy magistrate.

9420. You, I think, have aptly, in one of your writings, compared the attempt to use the natives of India as instruments of Government to "carving in rotten wood"?—I possibly may have used such an expression as that; but whether it was invented by me or by anybody else, it is perfectly correct.

9421. That

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9421. That is, in fact, the great difficulty of the Government?—The great difficulty of the Government lies in the utter want of moral feeling among the people themselves; among the zemindars there is scarcely any moral virtue; among the lower classes there is scarcely any moral courage whatever; and I am sorry to say, that even among the upper ranks of society in Calcutta their veracity is not to be depended upon, and there is an entire relaxation of morals throughout the country.

9422. Mr. *Villiers.*] Are you alluding to Europeans there?—No; I am alluding exclusively to the natives.

9423. Mr. *Mangles.*] But still you believe it to be the duty of the Government to struggle on and to strive to mend matters, and you think, do you not, that that object would not be effected by holding the people still further back, and by pursuing what I call a system of trying to teach boys to swim without allowing them to go into the water?—You must pursue this system, if you intend to introduce any sort of improvement at any time among the people. If you intend to govern India without any reference to the advantage of the people of India, that is altogether another question; but if you calculate upon improving the natives of the country, you must pursue the same system that has been pursued now, with, of course, all those modifications and all those improvements which time and experience will suggest; at least, I cannot see any other mode in which the progressive improvement of the country is to be secured.

9424. *Chairman.*] You do not disapprove of European superintendence?—I believe it to be indispensably necessary; you cannot superintend the natives or watch them too strictly.

9425. Mr. *Mangles.*] What do you believe to be the general character of the civil service, as a superintendent of this system of which you have been speaking?—I think that the efficiency of the civil service has been very greatly improved since Lord William Bentinck's time.

9426. What is your opinion of the degree of knowledge of the native languages by the junior civilians, especially those who have been subjected to the new system of three consecutive examinations?—I think the system of examinations established by Mr. Grant, and which often went by the name of Grant's Scorpion Rules, because they were so stringent, has succeeded in introducing such a degree of knowledge, both of the regulations and of the language, among the members of the civil service as we never had before. I do not believe there is a single civilian now to be found in Bengal of more than five or six years' standing (I do not allude of course to the older men who went out in the service before that time), who is not thoroughly acquainted with the language of the people. I was acquainted with 50 or 60 civilians, and have seen them in their kutcherries and their own houses, and heard them address the natives, and I was astonished to find how admirably they had mastered the colloquial language. The examinations that were established were so stringent, that it was scarcely possible for any individual by any system of cramming to have passed them; and a man who passed the third examination (that is, the second after leaving college), and was pronounced qualified for the public service, was certainly as qualified for the service as any human institution could make a man, The young civilian was placed in the room with the examiners, and a native case, written in the most crabbed handwriting, was put into his hands, which he was obliged to read and to master, and then and there, without any reference to law-books or to dictionaries, or to his own omlah, to write down his own order upon the subject. I think it is impossible for any individual to do that without being considered a sufficient master of the language of the country and of the laws he administered. At the same time he was under the necessity of carrying on a *vivâ voce* conversation, in the presence of the examiners, with any two or three natives whom they might select; and they had thus an opportunity of judging of the extent of his colloquial knowledge.

9427. It has been stated by several of the witnesses that very few, if any, English officers in the Mofussil are capable of summing up a case in the native language, or of holding any lengthened conversation, except upon the most ordinary and trivial subjects, with a native; is that your experience?—It does not accord with my experience of the Europeans there.

9428. Is your experience directly the contrary?—It runs almost entirely to the contrary.

9429. Do you believe that the native judges, as a general rule, have such a

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prejudice against Englishmen, that English settlers in the interior of India could not expect justice at their hands?—I do not think that among the native civil judges there is any such feeling; at least, I have never heard of its existence. The Europeans in the interior of the country have a very strong objection to have their suits tried by natives, and that may possibly have created a prejudice against the native judges; but, generally speaking, I think the native judges are impartial in that respect, both with reference to cases in which Europeans are plaintiffs and to cases in which the Government may be parties.

9430. *Chairman.*] In criminal as well as civil cases?—I am alluding to civil cases.

9431. But how far do you think it would be desirable to place Europeans under native judges in criminal cases?—I do not think that it is at all desirable. I would not place Europeans under the criminal jurisdiction of any native, and least of all after the feelings which have been developed in the present mutiny.

9432. Mr. *Mangles.*] As a general rule, what do you believe to be the feelings of zemindars and ryots towards indigo planters?—That is rather a delicate question; the natives themselves describe the position of the zemindars and indigo planters as that of the snake and the ichneumon, between whom there is perpetual enmity.

9433. Which is the snake, and which is the ichneumon?—That I must leave you to judge.

9434. What is the feeling of the ryots generally; do they look upon the indigo planters as their patrons and defenders, or have they feelings of a different description towards them?—I think that depends, in a great measure, upon the character of the planters. In the case of Mr. Furlong, an indigo planter in the Kishnagor district, he was regarded by all the natives connected with those factories of the Bengal Indigo Company as a father among his children; on the other hand, I have known indigo planters, men of violent temper, who were always at feud with the zemindars, and always quarrelling with their ryots, and giving them all the trouble imaginable.

9435. But is not the peace of the indigo district very often very greatly disturbed by the fights of the indigo planters and zemindars?—That is too often the case. In the districts almost immediately round the metropolis, the system of private war that is carried on I consider to be perfectly disgraceful to any civilised Government. I have known instances in which between 200 and 300 men have been collected; in fact, I have met them, and asked what the assembly meant; and they have said that they were the retainers of such a zemindar, going either to fight another zemindar, or to fight some indigo planter. It is impossible to maintain a good system of police in any of the districts near Calcutta, where there is a large number of indigo planters, and a number of troublesome zemindars. The fact is, that the number of lotyals, as they are called (that is, armed retainers), who are retained for the sake of breaking the peace, is much greater in the lower districts of Bengal than the number employed by the Government in maintaining the peace.

9436. How would you propose to deal with such a state of things?—It arises chiefly from the want of adequate protection from the police of the country, and I think it is almost inevitable from the present state of things. The police is exceedingly weak: it is not sufficient to afford protection either to the zemindar or to the indigo planters; and they are therefore in a great measure driven to adopt measures for the protection of their own interests.

9437. Do you agree then with the statements which have been made by several witnesses, that life and property are not secure in those districts?—I could not say exactly that life and property were not secure, because people do live in those districts, and contrive to live on; but at the same time they are by no means so secure as they ought to be.

9438. You never heard of an indigo planter who lost his life, did you?—I do not know but what there may have been one or two such instances, but I cannot recall them immediately to my recollection; I could not say that instances of that kind have not occurred.

9439. *Chairman.*] Do you think they may live in fear of their lives?—In a party fight it is quite possible that they may lose their life; when 200 or 300 men are drawn out on either side, fighting with each other with clubs and other weapons, it is not impossible that the European or the zemindar himself (though the zemindar contrives to keep out of the way) may possibly lose his life.

9440. Mr. *Mangles.*]

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9440. Mr. *Mangles*.] How do you account for the fact that these fights and this state of things does not exist in the districts of Behar, or, if at all, to a very slight extent, compared with the districts of Bengal?—There is the greatest possible difference between them: take, for instance, the district of Tirhoot, one of the largest indigo districts, where there are no disputes between the indigo planters and the zemindars, and no complaints made regarding the inefficiency of the police; but it is much easier to perceive the fact than to trace it up to its legitimate cause. I think the lower part of Bengal has been in a state of demoralisation for the last 150 years; perhaps it is the most demoralised portion of our dominions. I attribute the difficulty that the Government experience in establishing a good and strong police in Bengal, in part to the ancient circumstances of the country. For many years after our Government was established, it was found necessary, especially by Warren Hastings, to inflict such punishment upon the decoits as we should not tolerate for a moment at the present time. Somewhere about the year 1775 the whole of the lower provinces of Bengal were overrun with decoits, or gang robbers, and Warren Hastings found it necessary to adopt the most stringent rules for extinguishing them, and he passed a law that not only should every man convicted of decoitee be hung, but the whole of his family should be sold as slaves for the benefit of the State. Such was the state of the lower part of Bengal 70 or 80 years ago, and we are, I think, labouring under the consequences of that state in Bengal now; it is, in fact, the most disorganised portion of all our territories; it is the province which we have longest had under our dominion, and it is that in which our administration is least satisfactory.

9441. *Chairman*.] Do you attribute that disorganisation to the dacoity system, or do you attribute it to the severe punishments inflicted upon the families as well as upon the persons of the dacoits?—I mention the fact simply to exemplify the state of total disorganisation in which the whole of the lower part of Bengal was 70 or 80 years ago.

9442. From dacoity?—From decoitee and lawless violence on the part of the zemindars, during the state of transition from the extinction of the Mahommedan Government in 1756, to the establishment of our own strong Government about 1772. For the first 15 years we can scarcely be said to have had any government at all in Bengal; the administration of justice was left in the hands of the native government of Moorshedabad, and they were continually thwarted by the European officers of Government, and by the pretensions of Europeans in every direction. I think we have never fully recovered from the state of anarchy into which the country fell at that time.

9443.   .] Is there not a difference between the character of the planters of the districts of Behar and the planters of Bengal; do the planters of Bengal live upon the same terms with the civil authorities and the people as the planters of Behar do?—I cannot speak with any confidence upon that subject. I have known some planters in Bengal who lived in harmony with the zemindars, and with the European functionaries of Government; but, generally speaking, there is more discord in Bengal, and greater antagonism between the officers of Government and the independent Anglo-Saxon indigo planters, than there is to be found in Behar.

9444. Are the planters, as a general rule, in fact, the same class of men?—I cannot speak with confidence as to that.

9445. It has been recommended that English should be made the language of the Mofussil courts; what is your opinion of such a change?—We should consider it, at least all those with whom I have been accustomed to think and act, would consider it the greatest misfortune that could possibly happen to the country.

9446. Some witnesses have recommended that the proceedings of the Mofussil courts should be carried on in the English language through the medium of interpreters; what is your opinion upon that subject?—I consider that it would be the greatest calamity that could be inflicted on the country; it would be, in fact, a denial of justice to the great body of the people; it would be considered by them as an act utterly unjustifiable on the part of the British Government. I think at the same time that it would not in conduce in the smallest degree to the due administration of justice. It was considered the greatest boon ever conferred upon the country when Lord Auckland, about 25 years ago, abolished the Persian language from the courts and substituted the languages of the country.

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The Mahommedans, when they came into the country, did what the Normans did when they came into England; they established their own language in the courts, and Persian was thus for 600 years the language of justice; and Persian being also the language of the Court and of the upper classes of society, it was much better known even than the English language is at present. Yet still the great body of the people, 999 out of 1000 I should say, knew nothing whatever of Persian, and they, therefore, had no confidence whatever in the proceedings of the courts, or in the decisions that were passed. They could not understand the nature of the proceedings or the character of the evidence that was given, and therefore it was found impossible to give them any confidence whatever in the decision that was come to. Lord William Bentinck prepared the way for that change, and Lord Auckland abolished the Persian language from the courts, and established the language of the country. By the natives, from one end of India to the other, that was considered as great a boon as the establishment of the English language in our courts in the reign of Edward III. was considered by the Anglo-Saxon population; and any attempt now to substitute any foreign language would be unpopular to the last degree among the people, and I think it would tend very much to the perversion of justice.

9447. Did Persian, when it was the language of our courts of justice, ever get into ordinary use among the people of the country?—Not to any great extent; it was the language, not only of the courts, but also of the Court at Moorshedabad, and every individual who hoped for promotion under the Mahommedan Government applied himself to the study of the Persian language.

9448. I am speaking of our own Government?—Up to that time Persian was scarcely known among the people, except in the families of the upper classes of society, and those who expected to obtain situations in the courts and under our Government.

9449. Do you believe then, that if the English language were substituted for the vernacular language, as is now proposed by some, it would become generally known to the people of the country?—I do not think it would be more generally known than the Persian language was after it had been 600 years in use in the courts. The object of the courts is to dispense justice, and not to teach the people a foreign language, and if in endeavouring to teach them this foreign language you deny them substantial justice, I think you act with great barbarity.

9450. What do you believe to be the general opinion of the people of Bengal with regard to the integrity of the European judges?—I believe there is but one opinion upon the subject; the natives have the highest opinion of the integrity of the European judges.

9451. And of the collectors?—And of the gentlemen in the civil service.

9452. And of their competence for the discharge of their duties?—That must depend in a great measure upon the individual character of the civilian; but I think that, generally speaking, there is a considerable degree of confidence in them; much greater confidence than there was formerly.

9453. Do you believe that that arises from the superior knowledge of the native language, and of the superior habits of business of the present generation of public servants?—I think it arises from both those causes; both from their superior habits of business, and from the greater control that Government has been exercising over the proceedings of the civil servants throughout the country; for a man cannot now neglect his duty as he could 30 years ago. No man, for instance, would be permitted now-a-days to pass a decision by a foot rule, according to the length of the different petitions, which is known to have happened at Dacca.

9454. Mr. *Villiers*.] How did that assist his decision?—He did not decide at all according to the merits of the case; but he ordered a foot rule, and decided in favour of the individual who had sent in the shortest petition.

9455. Mr. *Mangles*.] It has been recommended, as essential to the good administration of justice in Bengal, that barristers or gentlemen trained to the English law should be appointed as judges of the several districts; what is your opinion of that proposition?—It would be impossible, under the present arrangement of the civil service; and I think that the system that is now established will not admit of such an innovation; by the system, I mean that young men shall be trained to a knowledge of their duties in this country, and then be sent out to India.

9456. Do you mean as apprentices, bound, as it were, to the service for life, entering it from the bottom and working their way up?—Yes; and enjoying certain definite prospects.

9457. You think that the enjoyment of certain definite prospects is essential to the Government obtaining the services of the best young men?—Quite so; it is quite as essential that they should have definite prospects as that a man should have definite military prospects when he enters the army.

9458. Do you not think that it is a great advantage to the Government to have a knowledge of the character and capabilities of the servants who are employed, to have them under their eye for five, ten, fifteen, twenty, or twenty-five years, according to the length of service, so that if they want a man for a particular position, or if they require any task of difficulty to be performed, they may know from experience where to lay their hands on the very individual who is suited to the purpose?—I think that is very much the case in India; the conduct of every young man in the civil service is regularly registered; all his proceedings are noted down by the Lieutenant-governor. Whatever he does of good or of evil is always to be found in the Lieutenant-governor's book, and he thus becomes acquainted with the individual character of every member of the service. He can tell where any one may have failed in his duty, and where he has exhibited any extraordinary energy or ability, and he is thus enabled to lay his hand upon the exact individual that is required for any particular appointment.

9459. And, in fact, from the circumstance of men entering the service almost in their boyhood, the character of every man in India is thoroughly known to all who are interested in inquiring into it?—Every man's character is perfectly well known in India; in fact, India has been compared to one vast whispering gallery.

9460. Mr. *Villiers.*] His connexions are also known, are they not?—Yes; his connexions in India.

9461. Mr. *Danby Seymour.*] You are speaking of Europeans only?—Yes.

9462. And of civil servants?—Yes.

9463. Mr. *Mangles.*] Do you not believe that a knowledge of the habits, feelings, trades, pursuits, crops, and of the country, are essential to the power of administering justice properly to a people?—Quite so; I think it indispensable that, for the proper administration of justice, a European should go out there at an early period; that he should mix with the natives as early as possible; that he should become thoroughly acquainted with their habits, with their feelings, with their prejudices, and with their modes of thinking; and that, without this local knowledge, it is scarcely possible for him to do justice among them.

9464. Do you think it essential that a man, to be a competent judge in India, should have passed through the revenue departments of the lower part of the service?—I think it is indispensable to make a good judge, that a man should have been employed for several years as a collector, because more than half the suits, I cannot remember the exact proportion, but I am certain that more than half the suits that come before a judge have reference to questions of land, and a man who has had no experience as a collector would find himself perfectly at sea when he came to decide such questions.

9465. Is not, in fact, the term "collector," as applied to the officers so called in India, a term very calculated to mislead an Englishman as to the functions of such an officer; has he not many judicial functions?—He is said to have 35 different functions to perform.

9466. And many of them are of a judicial character, are they not?—Yes, all the summary suits for arrears of rent (and upon those the happiness of the agricultural classes depends, much more than upon the decisions of the higher courts), are entirely decided by the collector.

9467. Or the ryots replevying against distraint?—Yes, and all matters, in fact, connected with the agricultural classes.

9468. I have seen, in the public prints in this country, a collector in India compared to a collector of Customs in this country; is that an accurate representation of his functions?—No; a collector has perhaps even more important duties to perform, with reference to the well-being of the country, than even the judge himself.

9469. Mr. *Danby Seymour.*] You speak of the collectors in Bengal?—Of the collectors in Bengal, and more particularly in the North Western Provinces, because there the collector and the magistrate are the same individual.

9470. Your knowledge is wholly confined to the Bengal Presidency?—Yes.

9471. Mr. *Mangles.*] One witness has said that there are not above two hours' work

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work in a day for a collector; is that consistent with your knowledge?—A man might slur over his work in that time, but there certainly is three times as much work as that for a collector to do.

9472. And is it according to your general experience that the officers of Government slur over their work?—No; I think, generally speaking, they are too great slaves to their work, for they are always talking shop.

9473. Mr. *Vansittart*.] It has been stated that the junior members of the civil service have very little to do?—Of course they have not so much to do as when they have direct responsibilities laid upon them; but that will depend in a great measure on the amount of work which the collector or his superior officer entrusts to them.

9474. Would not a young civilian, an assistant to a collector, being deputed to make a revenue settlement, give him abundance of work?—Yes, it would give him abundance of work.

9475. Mr. *Mangles*.] There have been cases laid before this Committee in which great injustice had been done to uncovenanted servants by not promoting them to higher offices, and where the evil of not employing the best men that could be found has been very much insisted on; is not that state of things, in your judgment, necessarily and unavoidably connected with that system of an exclusive service which you recommend; can you help it, in fact; must you not take that evil (if evil it be) along with the good?—By Act of Parliament there are certain functions that can only be performed by covenanted civil servants, and it is not, I believe, in the power of Government, while that Act continues in force, to employ an uncovenanted servant in those appointments.

9476. Do you believe that upon the whole, looking at the good and the evil of the two systems, that it would be desirable to relax the rule, and to allow the general admission to the service of all persons that the Governor-general might find in India, or that the governors might find in the different presidencies fit for employment?—I think it would be better to maintain the present system, and not to break up the civil service; if you interfere with the situations and with the prospects of the civil service, you in fact break up the *morale* of the service altogether, and it would be much better in that case to extinguish it at once; young men would not enter the service if they knew that those who might be called outsiders would be put into it whenever there was a valuable appointment vacant. When I was down at Ceylon I was told that the Government at Ceylon was very anxious to establish something like a civil service there upon the same principle as the civil service of Bengal, that is, to educate a service, and give them an exclusive right to promotion to certain office, but it so happened that after this rule was established, in consequence of some political movement or some Parliamentary necessity in this country, one individual was sent out there who did not belong to the service, and placed over the heads of all the others, and made, I will not mention the name of the office, but he was placed in one of the very highest situations under the Government; the effect of that was completely to destroy the character of the service, to introduce a feeling of universal dissatisfaction and languor throughout it; and I think that this would be the inevitable effect if you were to allow those who did not belong to the covenanted service to step into those offices which had been reserved especially for it.

9477. Does it not, in fact, really come to this, that if you establish a system you must take that system with its rough and smooth, with its advantages and disadvantages; that you must weigh whether an open service or a close service is upon the whole the best, and that if you determine in favour of a close service you must maintain it strictly close?—Yes.

9478. *Chairman*.] Do I understand you to prefer the abolition of the existing system to a modification of it?—I do not see how you can modify it without destroying the principle of it.

9479. Mr. *Danby Seymour*.] Would you revise the offices that should be held be the covenanted and uncovenanted service?—I think that is very advisable; in fact, the Act to which I have referred, which was passed I think in 1793, is not very definite with regard to the offices that shall be held by the covenanted service.

9480. But the Court of Directors have defined them, have they not?—They are defined, I think, more in practice than by any specific rules.

9481. They have refused the promotion of uncovenanted officers, have they not, in consequence of the existence of a clause in that Act?—They have done so in some cases; for instance, in the case of Mr. Riley, whom Mr. Halliday appointed to *officiate*; I think he used that particular term. Formerly the principal Sudder Ameen, in the absence of the judge, was entrusted with what were called the current duties of the office. Mr. Halliday appointed Mr. Riley to officiate for him, which in fact gave him the *status* of a civilian; this was objected to by the Members of the Council, and a reference was made to Lord Dalhousie, who supported the Members of the Council against the appointment.

9482. I thought it was just the reverse?—I am not aware that it was.

9483. Mr. *Mangles.*] You think that whatever advantages there might be in particular cases in employing this or that individual, like Mr. Riley or Mr. Ouchterlony, or any other gentleman in the uncovenanted service, it is better on the whole to adhere to the exclusive system?—I think it is at present.

9484. And that it is essential to the integrity of that system that it should be upheld strictly?—I think it should be strictly upheld, so that its prospects should not be interfered with.

9485. If certain appointments were taken away from it, as has been suggested in a question put by one Honourable Member, would not that diminish *pro tanto* the value of that service as an object of ambition to the *élite* of the youth of England, whom you are now attempting to induce to enter that service through the medium of a competitive examination?—That is rather a wide question, and I cannot reply to it fully without referring to the changes that have taken place in reference to the appointments of the civil service. At the time when that Act was passed there were 21 offices held by civilians which are not held by them now; for instance, every office of paymaster to the various divisions of the army was held by a civilian; the office of postmaster-general belonged exclusively to the service; that has gone from it; the office of purveyor to the troops, one of the most lucrative offices next to that of Member of the Council, has been abolished; but the Government have found it absolutely necessary to provide additional means for carrying on the administration of the country independently of the civil service. Our territories have increased since that Act fourfold; the number of members in the civil service has not increased thirty per cent.; the Government, therefore, have been under the necessity of declaring certain provinces non-regulation provinces; and those situations which in the regulation provinces are held by civilians, are in the non-regulation provinces held by those who do not belong to the civil service. The current of circumstances has constrained the Government, therefore, to break up the rigid exclusiveness of the civil service to a very considerable extent; and it will be necessary for the Government hereafter to act still more on this principle, because it will be necessary to employ European officers to a greater extent since the mutiny than before; and that must be provided for either by increasing the number of civil servants, or by strictly defining the offices that shall belong to the civil service, and opening all other offices to the uncovenanted service. In fact, one great difficulty that the Government have at present to cope with in India is, to define the offices that shall be given to the uncovenanted, and those that shall remain to the covenanted service.

9486. *Chairman.*] Are we therefore to understand that circumstances and necessity are to some extent breaking up the civil service?—They are modifying the civil service to this extent, that offices which 60 years ago were considered to belong exclusively to it, have been entrusted to other individuals, military men or uncovenanted servants, who do not belong to the civil service.

9487. Can you inform us how, since the transfer of those offices from the civil service, the duties of those offices have been discharged; have they been efficiently discharged by the persons who filled them?—I think that generally speaking they have been satisfactorily discharged.

9488. Mr. *Mangles.*] Do you mean, then, to include the military officers of the Government in the general term, "uncovenanted service"?—I do not consider them uncovenanted, but they are not members of the regular civil service.

9489. These appointments in what are called the non-regulation provinces, are mainly filled by military officers, are they not?—Yes.

9490. Would it not, in your judgment, open the door to a great degree of corruption, if on persons of full age coming out from England, it were left to the discretion of the Government of India to employ them in high and lucrative offices?—I think there would be great room for jobbery if they were to be appointed

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appointed to high offices; in fact, that is one of the strongest arguments for maintaining the present rule of the civil service, that individuals shall be appointed to the service in England and to offices in India. If you break up that rule and allow an individual to be appointed who comes out with a recommendation from a minister in this country, or from one who has any Parliamentary interest, to the Governor-general to put him into some public appointment, that would open the door to corruption and would tend to destroy the *morale* and the efficiency of the service.

9491. And is it not essential to the security of the service from such dangers that it should be entered from the bottom by apprentices to be trained up in the service?—I think so.

9492. Is it not the fact that Lord Cornwallis, in the year 1793, put the Government and individuals, both natives and Europeans, upon a footing of perfect equality in the courts, as to costs, damages, and the power of bringing actions and so on?—They were placed on a footing of perfect equality.

9493. Are suits brought by natives against the Government in our courts, fairly adjudicated upon, according to your knowledge and experience?—The general impression is that the civilians would rather give a decision against Government than in its favour.

9494. Therefore the natives do get full justice in these courts?—I do not think that any man is deterred from instituting a suit against the Government by the impression that it is in the court of the Government itself that the question is to be determined.

9495. Mr. *Danby Seymour*.] Is it your impression that they would generally decide against the Government rather than in its favour?—I think that is the impression generally, and that is my impression; I think the judges would rather decide against the Government; there is a prejudice against the Government even on the part of their own covenanted servants.

9496. Mr. *Mangles*.] In fact, have you not heard it a common saying among the natives that the Government have neither father nor mother?—Yes, constantly.

9497. I see one of the witnesses, Mr. Wyse, was asked these questions in No. 2651. "I think you stated that it was the object to drive the European settlers out?—Yes, one would suppose so." "To whom do you impute that object; was it the effect of the laws, or was it the intention of those who passed the laws?—The laws would have that effect." Is that according to your knowledge and experience?—No, my experience does not at all agree with the conclusion of Mr. Wyse, as stated in those questions and answers. It is well known that for many years the Government, both in England and in India, most strenuously, and I believe conscientiously, objected to the settlement of Europeans in India, and it was not until 1833 that that objection was removed; but from the period when the restriction was abrogated, and when the country was thrown open to the settlement of Europeans, I believe it has been the anxious desire of Government to obtain as many Europeans as possible in the country.

9498. *Chairman*.] Do you think that the old feeling at all remains?—I think the old feeling was extinct in India even before it was extinct in this country.

9499. Mr. *Mangles*.] As far as your experience goes, there has been no hostility whatever on the part of the Government in India, or on the part of its servants, to the free settlement of Englishmen, and the spreading of their industrial occupation?—Not the slightest hostility. I think the Government have been rather anxious to increase the settlement of Europeans in the country than the reverse; I believe that in every case the Government has considered it an immense advantage to have settlers there.

9500. *Chairman*.] Without supposing any hostile feeling on the part of the Government, do you think there may linger still a feeling of distrust on the part of persons intending to settle in India?—It is difficult to speak decisively on such a question as that; I can only speak with regard to what I have absolutely known. I have been in communication with the members of Government for the last 20 years; with settlers, merchants, and agents throughout the country; and I never heard it was supposed that the Government either felt or manifested any degree of hostility to the settlement of Europeans in India.

9501. Mr. *Danby Seymour*.] You must have been very much surprised on reading the evidence before this Committee, then?—We had the first edition of

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that evidence out in India, and therefore my surprise was in some small measure mitigated.

9502. But it strikes you as a new thing that any settlers should think that Government was opposed to the settlement of Europeans in India?—Yes, it strikes me as something incredible.

9503. Mr. *Mangles*.] It has been stated that there is great difficulty in carrying on any business in the Mofussil by British subjects, and that their residence in the Mofussil would be rendered absolutely impossible, and their success, of course, impossible, if they were subjected generally to the Company's courts; have you not known many European foreigners who carried on the same description of business in the Mofussil with fully equal success, those foreigners being entirely subject, exactly as the natives are, to the Company's courts, and to the Company's courts alone?—I have known a number of foreigners who have been engaged either as indigo planters or in the purchase of produce, or in the management of zemindarees, who have complained, as every one has complained, of the state of the law, and the defective administration of it, in consequence of the venality of the natives; but it was never considered that that was any serious obstacle, or at all events, such an obstacle as would prevent any individual from going and settling in the country.

9504. You have known personally many European foreigners who were in that position in the Mofussil, have you not?—Yes, I have known many such.

9505. Were they not, according to the best of your knowledge, equally successful in their pursuits as their English brethren?—I think they were.

9506. You knew the Larulettas, did you not?—Yes, and Mons. Courjon, and Devrinne, and a number of others.

9507. *Chairman*.] Do you ascribe these complaints then to some peculiarity in the English character?—I cannot say that; I cannot admit any particular defect in our English character; but it is the character of John Bull always to grumble wherever he is.

9508. Is not that the way to a remedy?—Yes.

9509. Mr. *Mangles*.] You think that the fact of the success of these foreign planters, and purchasers of produce, and merchants, is a practical logical refutation of the assertion of its being impossible for any man to carry on business with success who is subject to the native courts?—I cannot exactly understand upon what facts that has been asserted. I do not think there is any individual they can point to, who has been absolutely ruined and obliged to fly the country because of the operation of the native courts; and I remember well (and perhaps you may also) a time when our exports of sugar from Bengal amounted only to about 300,000 *l.*, 30 lacs of rupees, a year; but soon after Parliament took off the discriminating duty between the East and West India sugar, and then our exports of sugar very soon, within three or four years, rose from 300,000 *l.* to one million and a half sterling; I do not therefore think there can be any such obstacle to the development of the resources of the country or to the employment of European capital as has been described.

9510. But is it not the case that when the war with Russia shut out from England the produce of the north of Europe, the produce of the same articles, or analogous articles in Bengal, immediately increased, and the exportation increased enormously?—It did, and in fact the development of the resources of India has been progressing within the last five years at a rate that strikes every one with perfect astonishment.

9511. Is that state of things compatible with the strong evidence you may have read or heard as to the impossibility of living under the influence of the courts of the Mofussil?—The development of the resources of the country, the increase of trade to a most extraordinary extent, notwithstanding all the disadvantages of the courts, is capable of indefinite extension; this fact serves, I think, most effectually to disprove the assertion that the state of the police and the state of our courts is an obstacle to the increase of European enterprise in India.

9512. Mr. *Smith*.] Do you think the foreigners to whom you have referred, who succeeded so well in India, may not have conciliated the Mofussil courts in a mode which is very well known, but to which an Englishman would not resort, namely, corruption?—I think that the less that is said with regard to the mode in which justice is conciliated out there the better.

9513. Mr. *Mangles*.] What do you believe to be the feeling of the natives in the

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the Mofussil towards the Supreme Court, and the mode of administering justice in Calcutta?—It is not easy to ascertain what is the feeling of the natives in the interior of the country regarding an institution of which they know nothing, but there has been in many instances a very strong repugnance to any idea of extending the jurisdiction of the Supreme Court.

9514. Do you remember that some years ago there was a rumour that the jurisdiction of the Supreme Court was to be extended to the suburbs of Calcutta?—Perfectly well, and there was a very strong opposition raised to it by all the natives in the suburbs. There are natives, no doubt, who have a great and just confidence in the Supreme Court, but at the same time there is a very large proportion of wealthy and intelligent natives in the interior of the country who would dread the extension of its jurisdiction to their own neighbourhood. I think that the Rajah of Burdwan (the largest landowner in Bengal), in order to avoid subjection to the jurisdiction of the Supreme Court, avoids even sleeping in Calcutta.

9515. Mr. *Smith*.] Is not that owing to the enormous expenses attending suits in the Supreme Court?—In a great measure.

9516. Mr. *Mangles*.] Have you travelled at all upon the Grand Trunk Road of late years?—Within the last three or four years I have travelled six or seven hundred miles upon it.

9517. What is the state of that road?—It is the finest road we have in the Presidency of Bengal.

9518. Would it not be a very fine road in any country?—Yes, I should say it would be a fine road even across the Simplon.

9519. Where does it begin and where does it end?—I believe they have carried it beyond Delhi; it begins at Calcutta and extends right through the country up to Delhi; but I think it has been extended up to the banks of the Sutlej.

9520. What is the distance from Calcutta to Delhi?—To Delhi is 1,000 miles, and up to the Sutlej the distance would be 300 miles further, making a total of from 1,200 to 1,300 miles up to the banks of the Sutlej.

9521. How far have you travelled upon it?—All the way up to Allahabad.

9522. A witness has stated that there is a great want of bridges upon the road; is that consistent with your experience?—There are some rivers that have not yet been bridged; the Soane and the Jumna have neither of them been bridged.

9523. What is the character of the Soane?—The natives call it a "four mile river."

9524. Then there is no experience of such a bridge in England or in Europe, as would be required for the Soane?—I think not, but the railway bridge, upon the new system of tubular bridges, that is to be thrown across the Soane, is to be done for about 180,000 *l.*, while the estimate given to Government was 1,000,000 *l.* sterling.

9525. Generally speaking, then, with the exception of these very large rivers, the road is efficiently bridged?—There may be some smaller rivers which are not sufficiently bridged, but I think that wherever it has been practicable, except in the case of the larger rivers, Government have completed the bridges.

9526. Are you aware that in consequence of the railroad taking very much the same line, the Government have thought it would be unwise to spend very large sums of money in providing bridges for the Great Trunk Road over these enormous rivers?—During the last six or seven years, since the direction of the railway was settled from Calcutta up the valley of the Ganges, the Government has deemed it necessary to relax the building of bridges for the Grand Trunk Road, as they considered it would be incurring an unnecessary expense; in fact, after the railroad is opened, the Grand Trunk Road will almost cease to be used.

9527. You think it wise in Government, then, not to spend very large sums of money on these bridges?—I consider it would have been a most unwarrantable expenditure of the public funds to have thrown two bridges over the Soane, one upon the Grand Trunk Road, and the other in connexion with the railway.

9528. Mr. *Danby Seymour*.] The road bridge and the railway bridge would have been 50 miles apart, would they not?—More than 50 miles, I should think.

9529. Do you know the road from Calcutta to Cuttack?—I have not been upon that road.

9530. Do you know any of the other roads out of Calcutta; do you know the Diamond Harbour Road?—Yes, I have been upon it.

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9531. Is that road bridged?—I almost think it is; but it is so long since I was there, that I do not like to speak with confidence.

9532. *Chairman.*] How long is it since the Grand Trunk Road and the great roads generally were begun?—I cannot speak with certainty as to the date, but my recollection is that it was begun some 25 years ago.

9533. Do you or do you not think that the Government of the country was for a long time very improperly inert and apathetic on the subject of communication by means of roads in India?—It has been a general impression throughout India that for many years the sum expended out of the revenues of India by the Government in the construction of roads and bridges was altogether inadequate to the exigencies of the country.

9534. Mr. *Mangles.*] There is admitted generally to be a want of sufficient roads in Bengal, is there not?—A great want of roads throughout Bengal.

9535. That is admitted generally, is it not?—Yes.

9536. At the same time, are there not many roads and many bridges, however?—I do not think there are many roads in Bengal; the road, for instance, from the old capital, Moorshedabad, down to Calcutta is in a very dilapidated state.

9537. Is it not bridged?—No; in one place the bridge has been broken down, and never repaired.

9538. From Santipore to Kishnaghur and the road from Hoogley to Budwan?—That is a part of the Grand Trunk Road; I have no recollection of the old road.

9539. Some of the rivers that have been bridged upon the Great Trunk Road are rivers of great magnitude in the rainy season, are they not?—Very great indeed.

9540-41. Therefore the bridges are of a magnitude of which we have no examples in this country?—Certainly.

9542. .] Do you know the road from Mirzapore to Jubbulpore?—No; I have never been upon that road.

9543. Have you never seen it?—No.

9544. Do you know what the character of that road is?—It is considered one of the best roads in India.

9545. Is that road bridged?—I could not say without looking at the map.

9546. That is a road which goes from Mirzapore, one of the great marts of the Ganges, into the cotton districts, does it not?—Yes.

9547. Mr. *Mangles.*] It has been stated by a witness who has been examined before the Committee, that the only effect of an increase in the salary of the police has been, that those who wanted to bribe them have been obliged to give them higher bribes; what is your opinion upon that subject?—It is difficult to say what has been the effect of the change; but Government was absolutely under the necessity of increasing the pay of these men, and it was increased from 25 rupees a month to 100 rupees. As Mr. Courtenay Smith stated before Parliament that the honesty of the European servants of the public had been marvellously increased by the increase in the amount of their pay, the Government felt that they were bound to try the same experiment upon the natives, and they consequently increased the pay of the darogas from 25 to 50 or 100 rupees a month. I cannot say, however, that it has improved their honesty, but certainly it has not injured them in the opinion of the people.

9548. It has been stated that the effect of the resumption laws has been to shake entirely the confidence of the natives in our good faith, and altogether very much to damage the value of landed property; is that your belief?—I do not think it has had any effect in damaging landed property; and as regards shaking confidence in our good faith, it must be remembered that from the very first settlement we ever made in India, the lands that were held under these lackraj tenures, or rent-free tenures, were exempted, and at every subsequent stage the Government reserved to itself the power of investigating the validity of these titles, and of annulling those which appeared to be invalid; but there can be no doubt whatever that the resumption of the lands has created a large degree of disaffection among those who were deprived of their landed property.

9549. Can it be called properly a deprivation of landed property; ought it not rather to be called, under the circumstances of India in relation to taxation, a subjection to equal taxation?—In that case the whole of the land should have been taxed. What a native values above all things is the possession of land with which the

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the collector does not interfere; here were lands which natives had held for two or three generations, always with the understanding that they were liable to investigation; but as this investigation had been delayed, they had adopted the hope that the lands would never be taken away from them, and there was a proportionate degree of diappointment and vexation throughout the country in consequence of the resumption of these lands.

9550. Were they lands taken away from them, or was it not rather that a revenue was assessed upon them?—The native considers that you take away land from him, when that which he held free you subject to assessment.

9551. But you put him in no worse situation than any zemindar in the country, do you?—You do not put him in a worse situation than any zemindar who pays rent for his land, but you make him disaffected; for instance, the Rajah of Burdwan pays a large revenue to Government, and yet was exceedingly dissatisfied with the Government for having taken away from him a certain quantity of rent-free land, and subjected it to assessment.

9552. He considers that you deprive him of his freehold?—Yes.

9553. Mr. *Vansittart*.] I gather from your evidence that since 1831 natives have been very extensively employed in offices of trust, and this system has been improved very much of late years?—Yes.

9554. Do you give greater preference to either of the two great classes, Hindoos and Mahommedans?—I do not think that there is much to choose between them.

9555. You have stated that it would not be desirable to place Europeans under the criminal jurisdiction of natives, and more especially since what has been developed by the mutiny; now am I to learn from this that your good opinion and confidence is at all shaken in the system of employment of natives?—My opinion of the necessity of employing natives remains the same; at the same time, I should say there have been instances on the part of the natives of such base infidelity towards the Government, and even where this has not been the case, there has been, in many instances, so strong a feeling of hatred towards us, as Europeans, as foreigners, and as Christians, that I do not think, under existing circumstances, it could be at all advisable to subject Europeans to the criminal jurisdiction of the natives; in fact, I may say, the Europeans in India would rather resist it by force than submit to it.

9556. Do you know Mr. Charles Raikes, the judge of the Sudder Court at Agra, and late civil commissioner with Sir Colin Campbell?—I have a slight acquaintance with him; he lived in the North-west Provinces, while I was chiefly resident in the lower part of the Presidency.

9557. In a work he has just published he says, speaking of Hindoos and Mahommedans: "A few words as to the Mahommedans. They have behaved, in the part of India where I had jurisdiction, very ill; so ill, indeed, that if the rest of the population had sympathised with them instead of antagonised, I should despair of governing India for the future. I cannot give a fairer instance of the difference between the conduct of the Hindoos and Mahommedan people at the time of the mutiny than was afforded at our court at Agra. We had numerous Mahommedans and Hindoos, with a small sprinkling of Christians, at the bar. With one exception, all the Mahommedan pleaders left the court; one of them, Sufdur Ali by name, was hanged, by order of Mr. Harington, for plundering the property of an English officer. The rest gave no assistance whatever to us. The Hindoos, on the contrary, exerted themselves to protect and secure the property of their English judges, preserved our horses and moveable property, and did whatever else they could to show their loyalty and affection. The Mahommedans either deserted us or joined the rebels." It is with reference to this and other circumstances that I am induced to ask whether you give greater preference, with reference to the employment of natives in offices of trust, to either of the two great classes of Hindoos and Mahommedans; in point of fact, which do you think is the most trustworthy of the two?—I think you would find the Hindoos much more faithful to us. I think that a European would be more likely to obtain justice from a Hindoo than from a Mahommedan; but since these feelings of antagonism of race have been created between the Europeans in India and the natives, I do not think it is possible, nor do I think it would be at all wise or advisable, to subject Europeans to native courts in criminal cases.

9558. Do you think we should have a better class of Mahommedan officials if they were paid still higher than they are at present?—No pay we could give them would banish from their minds their feelings of antagonism to us as Christians.

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9559. You probably would then agree with this which appears in to-day's "Times" from a Mahommedan of considerable intelligence at Delhi; he says, "You are acquainted with the history of Hindostan; I need not tell you that similar rebellions used to occur, and will now continue to occur, so long as the British place confidence in any but their own. We, Mahommedans, are not true to ourselves and to our God; how can we be true to those whom we are taught from our infancy to consider inimical to our religion? We are not true to each other, how can we be expected to be faithful to the British? The rebellion is not over yet; the British are making a greater mistake than ever; they formerly, as a precaution only, entertained 900 Hindoos to 100 Mahommedans; they are now entertaining 900 Mahommedans to 100 Hindoos; they are thereby increasing the fire and reducing the water; and if I know the tenets of my own faith I am perfectly satisfied that the mere consideration of pay will not alter or restrain my brethren in their moral obligations to the Prophet, and we shall have all these horrors and murders again:" does that coincide with your views?—It perfectly coincides with my views.

9560. Are you favourable to the appointment of men of good family and education if they can be procured, to fill the offices of moonsiffs and sudder ameens?—I do not think you can obtain men of good prospects and good family in England to fill such an office as that of a moonsiff; a man must serve as a moonsiff for five or six years before he can attain to the grade of sudder ameen; you cannot appoint a man, under the present rules of the service, as a moonsiff, unless he has a good acquaintance with the laws and institutions of the Government, and with the language. If, therefore, a European goes out from this country to India in the hope of obtaining a situation as moonsiff, he must at any rate remain in the country two or three years while he is studying the laws and learning the language; and I think there is not a sufficient inducement to any individual of good family and connexions in this country to go out with the chance of obtaining such an office.

9561. In fact, you would rather keep the appointments as they are, and have them filled by the natives?—I should say that if there are any Europeans out in India who choose to undergo the same examination, they ought not to be excluded; and at the present time I think one-tenth of the offices of uncovenanted judges are filled by persons who are neither Hindoos nor Mahommedans; it affords an opening to a large class of men designated East Indians, and as I have said, those of pure European blood are not at all excluded from it; but I do not think that any individual of good family and connexions in this country would be induced, or ought to be persuaded, to go out to India with the prospect of going into the uncovenanted judicial service.

9562. Have you resided a good deal in Calcutta?—I resided within 14 miles of Calcutta, and was there every week.

9563. What is your opinion of the Legislative Council, as regards its utility or otherwise?—The Legislative Council was established only by the Act of 1853, and I have not therefore had sufficient opportunity of judging from my own knowledge of its utility; in fact, I came home to this country five years ago; I went out again about 18 months afterwards, and remained there about 11 months, so that it was only for 11 months that I had an opportunity of personal communication with the Members of the Council, and of personal observation of the character of its proceedings.

9564. You think it has answered the purpose for which it was established?—Not to the extent it might have done.

9565. Is it not too confined and restricted as regards its formation, many of them—nine or eleven, I think—being nominees of the Government?—The difficulty with regard to the Legislative Council, consists in this, that if you step beyond the nomination of Government, and make it at all a representative body, you must have European members, and native members. You have four different Presidencies; you must have a native member from the North-west Provinces, and a European member from the North-west Provinces; the same from Bengal, the same from Madras, and the same from Bombay; otherwise there would not be a fair representation of local interests; and the great difficulty with regard to making it an elective body, consists in the division of the country into these Presidencies.

9566. With reference, therefore, to the enormous expense it costs India, and the little good it does, would it not be better either to abolish it altogether, or to enlarge

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enlarge it, and to let each Presidency have its own Legislative Council, composed of indigo planters, barristers, merchants, and others?—I do not think that the country is exactly prepared for such a representative system as that.

9567. Assuming the country is not prepared for a representative system of this kind, do you not think it better at this time, at any rate, to abolish it altogether, with reference to its enormous expense, as it costs many lacs of rupees, and appears to be of very little use?—I have not considered it in that aspect.

9568. The duty of the Legislative Council and the Supreme Council is exactly the same, is it not?—The Supreme Council of India is an executive council.

9569. The Rev. Mr. Mullens, in his evidence in Answer 7172, says, talking of the Legislative Council, "We have no good tribunal before which we can really bring forward the various evils which we consider to exist in the country; the present Legislative Council is by no means so open as we should like; all the members of the present Legislative Council are officials appointed by the Government, and they are so far irresponsible, except to the Government itself, and it is very hard to get a case fully taken up in the Legislative Council and discussed on every side." Do you agree with him in that opinion?—I have no doubt that there is a great deal of truth in it; at the same time any member of the Legislative Council may introduce any question into it; he may make a proposal for the introduction of any law, and get up any discussion upon any subject, and I do not think, therefore, that there is so very great an obstacle as Mr. Mullens appears to suppose to the investigation of cases of grievance.

9570. Granting what you say, would not a Member of the Council be likely to square his views agreeably to the views of the Government? They are all Government nominees, are they not?—But they are very independent; in fact the Legislative Council has been a very independent body from the very beginning; one of the first acts of the Council was to declare itself altogether independent of the Government in this country. I believe the President of the Board of Control sent out some instructions to the Governor-general to request that an alteration might be made in an Act that had been passed, and the Legislative Council determined to maintain its independence, and positively refused to receive any instructions whatever from the Government of this country. I think it has been practically found that although the Members are all nominees of the Government, and in the pay of the Government, yet as the Government could not remove any of them from office, they are practically independent of Government. I believe they feel their independence, and that they would exhibit it in any case that might arise; I believe there is no servile submission to the wishes of the Supreme Government from the mere circumstance of their drawing their salaries from it.

9571. Many obnoxious Acts have emanated from the Legislative Council; Black Acts and others?—I do not think that any of the Black Acts have been passed by the present Legislative Council; they may have been discussed, but I do not think they have been passed.

9572. *Chairman.*] The mere independence of the Council does not insure the representation of the interests of India in that Council?—No; I alluded to their being independent of the influence of the Government.

9573. Mr. *Danby Seymour.*] Have you ever held any office under Government?—I was for 12 years the Bengalee translator to the Government.

9574. Have you held any other office connected with the Government; have you had any contracts?—I have held no other office under Government.

9575. But you had a large paper contract, had you not?—For several years, but it was open to competition, and it was renewed only from year to year.

9576. And your newspaper, "The Friend of India," was considered, was it not, generally the organ of the Government?—I do not know that it was considered the organ of the Government.

9577. You have seen it constantly stated and it was the impression, was it not, that it was so?—In order to neutralise the opinions that were given in "The Friend of India," it was common to say it was the mere organ of Government; but I always considered that the object of that slander was merely to weaken the effect of the opinions when they were felt to be strong.

9578. It was said, was it not, that you derived a great deal of information from the Government; do you consider it a slander to have had your paper connected at all with the Government, or to have derived information from them?—I consider it a slander if it is said that the paper was the organ of Government, and under the influence of Government, because it was not the organ of Government, nor was it in the smallest degree under its influence.

9579. Whether rightly or wrongly, people considered "The Friend of India" as representing the opinions of the Government, and they considered you very closely connected with the interests of the Government, and with the interests of the Court of Directors, did they not?—There was such an impression published in the papers; but I cannot say that it was universally prevalent; at any rate, I can say that I continually endeavoured to counteract it, and that on every occasion in which such a remark appeared in any of the papers, I lost no time in contradicting it, and in stating that "The Friend of India" was perfectly independent of any influence of Government.

9580. You were a Government servant for 12 years, were you not?—I was Bengalee translator for 12 years.

9581. You have stated that for the last five years there have been great improvements in India in the general administration of affairs there?—I think I alluded to the administration of the civil courts.

9582. That would have been since the passing of the late Charter Act, and the great discussions that took place in England regarding the want of progress in India, would it not?—Yes; I think the discussions which took place in England, more especially with regard to the want of roads, had a very great influence on the movements of the Government; in fact, I think that the Government was urged too strongly to accelerated speed in the construction of these roads, and that in consequence of some despatch that was sent out by the Board of Control, requesting the Government to spend every farthing they could upon the roads, the sums laid out upon them were so greatly increased, that you upset the finances of India in about three years.

9583. Are we to consider from the general tenor of your evidence that you consider the complaints of the indigo planters are unreasonable, and are not to be remedied by the Government?—That depends upon the nature of the complaints.

9584. The general complaints; you said they always grumbled?—I said that John Bull always grumbled; but with regard to the complaints of the indigo planters, you must define what those complaints are. Having read over the evidence of some of the indigo planters given before this Committee, I fully agree with them on several points. For instance, I agree with them with regard to the tenure of land in Bengal; I think it is indispensably necessary that the sale laws should be so improved that upon the sale of the zemindaree for arrears of revenue, the putnee tenures, which are the only permanent leases in India, should be maintained. There are also several other points in their evidence which I have seen, in which I most fully concur.

9585. Do you not think that at present there is a very strong feeling of, I might almost say, antipathy between the independent Europeans in India, and the Englishmen engaged in carrying on the administration of Government there?—I think there was a very strong feeling of antipathy, rather antagonism, before the mutiny, but all my letters from Bengal tell me that that feeling has abated, and that as the object of the natives was to exterminate our race and our religion, that feeling of antagonism has almost ceased to exist.

9586. You have said, I think, that the ryots considered that the relation between themselves and the planters was like that existing between the snake and the ichneumon, do you agree to that?—That depends in a great measure upon the character of the indigo planter; I have known, as I have mentioned to the Committee, indigo planters who were regarded as the fathers of the ryots around them; men like Mr. Furlong, and half a dozen other gentlemen I could name, who spared no expense and no labour in order to benefit the ryots around them; there were other individuals again whose sole object was to squeeze as many bundles of indigo out of the ryots as they could.

9587. If that was a common saying it would lead us to suppose that the majority of the indigo planters held that relation to the ryots?—I merely mention it as a remark that I have heard on more than one occasion.

9588. Do you think that that aptly represents the relations between the two, generally speaking?—I cannot say that it does.

9589. Do you think that the presence of indigo planters is a benefit to the country or not?—I think it is a great benefit to the country.

9590. Do

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9590. Do you think that the exactions of the planters are greater or less than those of the zemindars?—That is rather a difficult question to answer.

9591. Do you think that the indigo planters do oppress and exact from the ryots more than they ought, generally speaking?—I think there are many instances in which they do.

9592. Then, it is doubtful whether their presence in Bengal is a good or an evil?—No; notwithstanding every drawback their presence in Bengal is a great advantage.

9593. Would you like to see more European skill and capital introduced there? —You can never introduce too much European skill and capital into India.

9594. And do you consider that, in order to have more European skill and capital, you must improve the internal administration of the country?—No.

9595. Do you think that, generally speaking, in well ordered countries, people are obliged to go and fight for their own rights, and that when they have got those rights established in the courts they cannot get the decree executed?—Lower Bengal is in an exceptional state altogether to the rest of India.

9596. And do you think it must remain so?—It will remain so till it is changed.

9597. But you think it cannot be changed, I suppose?—I think it will require many years of good Government; Bengal is, perhaps, the most difficult government of any in India to manage. I have no doubt that the present state of things may gradually be remedied; that is, that the Government will be able to establish so strong a police as to put down the armed retainers both of the indigo planters and of the zemindars.

9598. Do you think that up to the present time it was quite out of the power of the Court of Directors to establish such a police?—I cannot say that it was altogether out of their power; but the efforts that have been made have not proved successful.

9599. Then you think that all that might have been done has not been done? —Every new experiment that you make casts a reflection on you for not having done it before.

9600. Do you think that it ought to have been done before?—Government have for the last 10 or 15 years been endeavouring, as far as possible, to improve the police of Bengal; they have appointed deputy magistrates in various parts of the country, so as to break up a large district into three or four different divisions; they have increased the pay of the darogahs, and in fact they have been labouring most diligently to improve the police of the country.

9601. How long have they done that?—Within, I should say, the last 15 years more particularly.

9602. And still it is very bad?—It is still exceedingly deficient.

9603. *Chairman.*] During the last 10 or 15 years, have not the police been much improved in other parts of India?—I think they have; but I can speak more particularly to that part of India that has come directly under my own observation.

9604. Mr. *Danby Seymour.*] You have said that the natives very much appreciate land with which the Government cannot interfere?—Yes.

9605. You would be for simplifying the tenures in Bengal, would you not?— I do not think that you could simplify tenures in Bengal; the tenure in Bengal, as between the Government and the zemindar, is simple enough.

9606. But what I mean is, you might allow him to redeem the land tax, might you not?—That is a very large question; that would be allowing the present Government to eat up the resources of posterity.

9607. Do you not consider that there is an inestimable benefit in leaving the land as free as possible?—Certainly.

9608. What people complained of in the case of resumptions, was the Government leaving their right in abeyance for a great number of years, and then suddenly coming to claim it?—I cannot say that it was their coming down suddenly upon them, they came down more stringently in 1828; there had always, as far as my recollection goes, been some investigation going on with regard to the validity of these tenures, but it had always been evaded by the natives, and it was an odious duty, which every collector endeavoured to shirk as much as possible. It was in 1828 that the Government established a vigorous system for bringing the question of resumptions altogether to a close, and it was the vigour of that movement, rather than its suddenness, that seemed to give umbrage to the natives.

9609. But still many people had held their land, had they not, rent free for 40 years, and were then, for the first time, called on to pay under the assessment?—Yes.

9610. And did not, in many cases, Government assert a claim which they found they could not prosecute in courts of justice. Did not the Judicial Committee of the Privy Council set aside the claim of the Company to what they claimed from the Rajah of Burdwan?—Yes.

9611. Do you think it was a politic measure on the part of the Government to put forward claims which they found afterwards they could not support?—The question of their not being able to support the claims was a mere technical question, I believe, of English law; because the general opinion out in India (with great deference be it said) was that the decision of the Privy Council was wrong, and that the decision of the courts out in India was right.

9612. Still do you not think that the Company claiming their rights after so long an interval, offended the feelings of natural justice entertained by the people?—I think it gave great offence to the people; I was myself very much in favour of the resumptions at the time, but having had an opportunity of seeing what has been the effect of the system of resumptions upon the native mind, more especially among the zemindars, I am very sorry that the Government ever undertook them.

9613. Do you not think that in all parts of India the resumptions have done harm?—I do not know of any instance in which they have done good; perhaps you are alluding particularly to the enam lands.

9614. I am; do you think it wise now to begin such a system in Madras as the Court, I believe, intend to do?—I should certainly say that if they intended to do it at all, they should have done it before the mutiny, and not after it.

9615. You said, I think, that the civil servants, to be effective, ought to be well acquainted with the feelings and modes of thought of the people?—Yes.

9616. Do you think that their ignorance of the disaffection of the people and of the outbreak and insurrection which we have seen lately, showed their acquaintance with the feelings and modes of thought of the people?—I do not think you can form any conclusion from the present mutiny, or reason from that mutiny as to the inefficiency of the civil service. The military officers who were best acquainted with the habits and feelings and thoughts of their own men, were entirely ignorant of what was about to take place up to the very moment of their own massacre. I allude particularly to the case of Major Holmes and the case of Major Fisher; in both those instances the officers lived with the men and among the men, and I believe that one of them had been out playing at bowls with them the very night before, and had perfect confidence in them, and was murdered the next day.

9617. Do you not think that with so highly paid a service as the civil service is, and it being scattered over the whole country, the Directors might reasonably have expected to have been informed of the state of feeling among the people?—I think the mutiny took every one in India so completely by surprise, that it is not to be wondered at that even the civilians themselves were not able to anticipate its approach.

9618. Do you not think there was a greater knowledge of the feelings of the people among the indigo planters and the uncovenanted servants, who mix more with the people, and are more intimately acquainted with them?—Certainly; the indigo planters have the opportunity of mixing with the natives more than the civil and session judges; but not more, I think, than the magistrates and the collectors, for the magistrate is continually required to be about his district, and in riding through it is brought in contact with all classes of the people, and with all their feelings and their habits. I cannot, therefore, assert that either the uncovenanted servants or the indigo planters have a better knowledge of the feelings and habits, and thoughts, of the people than those two classes of civilians.

9619. Is there not a greater awe of the collector, and does he not get his knowledge of the people principally through the native servants who surround him?—The collector is obliged to spend three months of every year in travelling through his district, and he has thus an opportunity of becoming acquainted with every part of it, and with the people in it.

9620. Do you not think that he is entirely in the hands of the native servants who

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who surround him, and who prevent, as much as possible, his intercourse with the people?—The object of every omlah, or native officer, is to maintain his influence over a European, and to prevent anything that should weaken it; but it is scarcely possible for any European in India to shake off the influence of the natives around him. I have heard just the same complaints made by indigo ryots with regard to the omlahs, or the native officers of the indigo planters, as I have heard with regard to the native officers in the collectors' and magistrates' courts; they have said that indigo planters had given their confidence to two or three natives, and did exactly as they advised. It is the same with regard to the collector and the magistrate, and to almost every European in India; there is nothing that we find more difficult than to keep ourselves clear of the influence of two or three sly designing natives around us.

9621. Does not a civilian, from the time he sets foot in India, live in a kind of charmed atmosphere, being looked on as a superior being, and never having an opportunity of mixing thoroughly with the people in the same way that an independent European, or an uncovenanted servant has?—He certainly is surrounded by an official atmosphere from the time he arrives in India; but I think he has an opportunity of mixing with the people in his tours through the country, which a magistrate and collector is bound to take for four months at least in the year; the magistrate more particularly is always moving about in his district; in case of any affray in any part of it, he is off at a moment's notice.

9622. Do you not think it is more difficult for a civil servant than it is for an independent European, to get thoroughly acquainted with the people?—Perhaps it may be a little more difficult in the one case than it is in the other.

9623. Do you not think that if you could get persons who have obtained a knowledge of the habits and modes of thought of the people before they enter the service, you would have more efficient men, provided you could do it without too much jobbery?—I have always been of opinion that indigo planters and zemindars should be invited to assist in the administration as justices of the peace; but with regard to throwing open the civil service, I think whatever advantages might be derived from it would be more than counterbalanced by the jobbery and corruption that would be inseparable from it.

9624. Do you not think that the object of Government ought to be to get all the ablest men into the administration, and by that means do you not think they might modify the civil service, and allow a distinguished person like Mr. Venables to be admitted into it, though they did not go out from England and gain their places by competition?—That is a very wide question, and I should like to consider it more carefully than I can do now, before I replied to it.

9625. Do you not consider it desirable to avail yourself of the talents which recent events have proved to exist in India, and out of the civil service?—I think it will become more and more necessary for Government to avail itself of all the talent it can find in India.

9626. Do you not think that in the case of so distinguished a person as Mr. Venables, who has done such great service to Government, it is unjust to say, however long you may devote yourself to the public service, you never can receive more than 1,500 *l.* a year, which is the pay of a civilian after a few years' service?—I do not think that is exactly a question that one should be called on to reply to at a moment's notice, because, as I told you, it turns upon the question of an open or a close civil service.

9627. Are you favourable to opening the Sudder Court to independent Europeans and natives?—I would appoint one or two barristers certainly to the Sudder Court; I think it would be a very great advantage.

9628. You think it an evil that the highest judicial tribunal does not generally contain one trained lawyer?—The judges are trained in the system of law that is administered there; they have been employed in administering that law for 20 or 25 years; I do not think you can say the judge is not a trained lawyer, unless by that term you refer to English law exclusively.

9629. Have there not been cases in which a civilian has been for a vast number of years in another employment, and is then suddenly put into the Sudder Court?—There is no doubt a great disadvantage in the system now existing, and it requires most unquestionably to be remedied.

9630. You have said that there were 35 different functions of the collectors; with regard to those, is it not the fact that although that collector nominally discharges those duties, he depends entirely upon the native heads of each of these departments?—Not altogether; some of them may be departments of mere form and he has nothing therefore to do but to see that the forms have been carried through, and then to affix his signature to the paper; but in many cases, the collector, in the North-west Provinces particularly, is the most important man in the whole district; he is in fact what you might call the Prefet of the district, the system which we wish to see established in Bengal.

9631. Take for instance the case of the police under the collectors; the time of the collector himself, you say, is very much occupied, he cannot go and look after the native police, but must depend upon the native head, and be guided by him, must he not?—But if you were to unite the office of collector and magistrate, as we have been long anxious to do in Bengal, you would have the advantage of getting rid of the very young magistrates, whose appointment is now a very serious objection, and they would be employed then as assistants to the collectors in different parts of the district.

9632. The case of Bengal is an exceptional one, because the collectors there have much less to do than they have in any other part of India, have they not, owing to the permanent settlement?—Notwithstanding the permanent settlement, the collector has an immense deal to do, because he has all the summary suits to dispose of; he has to decide an immense number of cases arising out of the disputes of the agricultural community.

9633. Do you not think that, generally speaking, with a view to good administration it is an evil to accumulate a vast number of functions in the same individual?—If he is able to discharge them efficiently I do not see the disadvantage of it.

9634. Can he in a complicated state of society discharge those duties well?—I do not think that a collector in Bengal has ever been charged with a neglect of duty, notwithstanding the number of functions he has had to perform.

9635. Have there not been complaints made?—There may have been some complaints made, but of a personal nature rather than with reference to the office.

9636. Do you think that a man who fills the office of collector, and who has his time very much occupied in discharging the duties of his office, ought also to have the duty of looking after thief takers and watching the efficiency of the police in all parts of his collectorate?—On the other hand, the great outcry in Bengal against the system of police, is that the magistracy is in the hands of young men of three, four, or five years' standing; there is no mode of remedying that defect (and a very great defect it is) but by introducing the system which prevails in the North-west Provinces of uniting the offices of magistrate and collector, making the collector the chief of the department, and employing the man who is now the magistrate as his assistant; the magistrate, in fact, would have much the same functions to perform that he has now, but he would be responsible to an officer of superior standing, and both Europeans and natives would have more confidence in the police when they found it under the general superintendence and control of officer of higher rank.

9637. Supposing we took Mr. Halliday's plan, and gave the post now occupied by covenanted servants to some uncovenanted servants, and got perhaps three efficient men where you now have one, for the same amount of pay, would not that remedy the want of European agency?—That again resolves itself into the question of a close or open civil service.

9638. Mr. *Villiers*.] Did I understand you to say that you had been 30 years in India?—Yes, more than 30 years.

9639. I believe you were in India when the mutiny broke out?—No, I was in this country.

9640. When did you leave India?—I left it for the last time about 30 months ago.

9641. You had no reason to expect an outbreak?—Not the slightest expectation of a mutiny.

9642. You believed that everybody was well affected?—We knew that there was a feeling of disaffection among the Mahomedans, a feeling which had existed for the last 50 or 60 years; but that there would be anything like the present mutiny, or rebellion, there was not the remotest expectation on the part of any individual that I know of in India.

9643. You had none yourself?—None.

9644. And you have travelled about a good deal, and consider yourself conversant

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versant generally with the state of India, and acquainted with the habits and opinions of the people?—I do.

9645. When you state that no other person, so far as you know, entertained any apprehension of an outbreak, you would not say that there were not other people who had such an apprehension?—No.

9646. I do not know whether you have seen Mr. Raikes's work?—I have not.

9647. I think it is only this morning that there is an extract published from his work, stating that nothing took him by surprise; that he had been long in apprehension of something of the kind?—Upon the same principle as Sir Charles Metcalfe said, "The empire came in a day, and will pass away in a night. We shall awake some morning, and find all our throats cut."

9648. He thought that some day we should have a general rising against our Government?—He thought so, from his knowledge of the native character.

9649. You have been favourably impressed with the native character, I think? —Very much indeed; I lived among the natives on terms of perfect intimacy and confidence, and speaking their language familiarly, I had an opportunity of ascertaining better than many others their own feelings and thoughts regarding us; and I certainly did think that the natives were favourably disposed to our Government, and that nothing was more remote than such a mutiny as that which has occurred.

9650. I think you have said that, besides being aware that there has been a great improvement in the system of Government, as compared with former times, you have observed an improvement recently?—Yes, I have observed an improvement in the character and movements of the Government, and in almost every department of the administration; the fact is, that the improvements that have been made in India, and the endeavours that have been made to improve the administration, where we are entirely unfettered by prescriptive forms, would perfectly astonish the people of this country if they had an opportunity of looking into the matter.

9651. You have stated, I think, that within the last 30 years we have considered the improvement of the natives rather than merely holding the country for our own advantage?—I think you may date the development of that feeling from the time of Lord William Bentinck, which is about 30 years ago.

9652. But I presume that, before that time, the character of the Government was unfavourable to the moral character of the natives?—I cannot say that it was unfavourable to the moral character of the natives; but before the days of Lord William Bentinck there certainly was not that spirit of improvement which he introduced into the country; there was a degree of lethargy, more especially during the five years of Lord Amherst's administration, which he determined to break up; and we have always been accustomed to consider Lord William Bentinck's government as the great era of modern improvement in India.

9653. That was the time when we first began to consider that the natives ought to have a share in the administration of the affairs of their own country? —Yes.

9654. And you are not of opinion that that policy has failed?—I do not think it has.

9955. You would hardly call 30 years a long period in the history of a nation, would you?—No, but it has been quite long enough. When you consider the gratitude felt by the natives for Lord William Bentinck, and the perfect veneration in which every native holds his memory, you cannot but conclude that the system he introduced has been successful in rendering our administration popular in the country.

9656. But it is premature, is it not, to say that that system of employing natives in the government has failed?—We have had 30 years' opportunity of judging of it, and I do not think it has failed; it has succeeded beyond the most sanguine expectations of even Lord William Bentinck himself.

9657. You have also stated that it was after 1833 that the Company first allowed settlers to establish themselves?—By the Act of 1833 the law prohibiting Europeans to settle in India was abrogated.

9658. You have also, I think, expressed an opinion that the more settlement is encouraged the better it will be for us and for the people of the country?— Undoubtedly.

9659. And I think that was owing to the change that was made on the renewal of the charter?—The old traditional doctrine that India must be held for

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for the benefit of a London corporation, and that interlopers must be entirely kept out, had given way entirely in 1833.

9660. And I think you say you had observed within the last ten years, and even, I believe, you said within five years, an improved spirit in the character of the Government of India as it is administered by the service there?—Lord Dalhousie was Governor-general for eight years, and I had not much experience of it after his time; he came to England soon after I did, but certainly during the whole of his administration there was a degree of vigour and energy in the way of improvement such as we in India had had no previous example of.

9661. You admit, I believe, within the last few years there has been, in consequence of the public feeling which has existed in this country, a sort of action upon the Government of India?—I think that the public feeling which has existed in this country has acted very beneficially in India, and particularly on the feelings and exertions of the members of the civil service.

9662. As far as we can collect from your evidence, every improvement that has taken place within these 30 years, has in your opinion sprung from the interference of the British Government, from the change which Parliament made in the Charter in 1833, from the encouragement of settlement, from the facilities for communication existing in India, and the greater interest which is now taken in this country with reference to the affairs of India?—Quite so.

9663. The covenanted or civil service has always existed in India?—Yes, the covenanted service has always existed. The fact is, that the Government found it so difficult to keep their servants when they got out there (they gave them the large sum of 40 *l.* sterling a year, that being the highest sum bestowed on a covenanted civil servant) that they were obliged to bind them, by a covenant, to remain for a certain number of years in the service.

9664. I think we collect from your view of affairs that the improvements which have taken place in India are not due to the service out there, or to the system of Government previous to the last 30 years, but to the greater enlightenment of this country, and the interference of the British Government with the Government of India?—I think the improvement that has taken place there has arisen in a great measure from the reaction of public opinion in this country with regard to questions relating to India; it has arisen also from the frequency of communication, and from a general spirit of improvement; in fact, for the last thirty years, both in this country and in India, there has been a general impulse of improvement manifested in all classes of society, as well as in the Government; it has been felt in this country ever since the Whigs came into power in 1830, which is one of our great historical landmarks; and it has been felt in India likewise.

9665. If the covenanted service were not continued, and if there were a still further action on the part of the British Government upon the conduct of affairs there, and a still greater influence of this country bearing upon India, would you still attach the same importance to maintaining the covenanted service?—I do not see any substitute at present for the covenanted civil service.

9666. I understand you to say that that opinion rests on people going out early to India, becoming familiar with the habits and manners of the people, and having a certain prospect of rising?—Yes, and preparing themselves for it before they go out to India, being educated in a measure for it in this country, and going out to an honourable service, with a certainty of rising in it to various offices, with definite prospects before them.

9667. Are you not rather confounding two things, the advantage of the civil servant and the good of the country; it is an advantage, as you would say, that a person who intends to take to a profession should be certain of rising in it, and that his labour will be properly remunerated; but, *quoad* the interests of the country, I do not trace them to the operation of the civil service so much as to that which is independent of it?—The covenanted service has grown up like many of our institutions, entirely from circumstances; it was a legacy left by the old factory economy to the Government of India, but we now find that the system of the covenanted civil service, by which men are appointed to the service in this country and to offices out in India, has very peculiar merits, and is found beneficial for the administration of justice, and for the general interests of the country.

9668. I think you have stated that of late years, owing to the great accession of territory, the civil service has been deficient?—The civil service has not been

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adequate to the performance of all the duties that might have been expected from it; the number of civilians has been increased only about 30 or 40 per cent., whereas our territories have increased fourfold.

9669. That has been rather for the advantage of the civil service, has it not?—I do not think that the civil service has gained anything by it, because they have scarcely the same allowances they had in the days of Lord Cornwallis, 60 years ago.

9670. But individuals are selected for better places, are they not, in consequence of the great additional territories that have been annexed?—No, not particularly; because the Government have been under the necessity of appointing to these new territories officers not connected with the covenanted civil service.

9671. Among the new territories, do you include the Punjaub?—Yes.

9672. That has not been administered particularly by the covenanted service, has it?—It is administered, I think almost entirely by the covenanted service; but Lord Dalhousie adopted a plan of his own; he threw the military and civil servants together, and placed them on a footing of perfect equality; he appointed a number of young men in the civil service, and at the same time a number of military men as assistants; these men went into the service together, and they have risen since entirely according to their own merits, so that the civilian and the military man are on a perfect par with regard to emoluments; but that has been done only in reference to the Punjaub. It was Lord Dalhousie's intention to have introduced it also into the administration of Oude; but in other provinces that we have conquered, as, for instance, in Pegu, there is no civilian employed; every officer, whether judge, magistrate, or collector, or whatever the office, is a military officer connected chiefly with the Madras Presidency.

9673. But the mode in which the Government has been administered in the Punjaub is not the same as it has been in other presidencies?—No.

9674. And it has been administered to a great extent by a class of persons not trained, as the civil service are trained, by military men?—Partly by military men and partly by civilians.

9675. And the general opinion is, that no part of India has been better administered?—Yes.

9676. I suppose one of the consequences of that has been that the military have not been with their regiments?—That has been a necessary consequence.

9677. And a great evil?—It is generally supposed to be a great evil.

9678. If, therefore, you could have found people there not military and not covenanted, but having resided in India a considerable time, who could have been employed in the Punjaub instead of military men, it would of course have been a great advantage?—I do not think you could have found any individuals who would have answered the purpose; nor do I know that it would have been attended with such an advantage as might at first sight be supposed. The young men in the military service had received a thorough English training and education in this country at Addiscombe, as the members of the civil service had at Haylebury, and were, I think, perhaps better qualified for these public appointments than men who have gone out merely as adventurers.

9679. But you are aware that Haylebury has been abolished?—Yes, within the last two years.

9680. By the Company?—By the Company; but the young men who were employed in the Punjaub consisted of those who had been brought up at Haylebury and Addiscombe.

9681. The advantage of those places is the knowledge that young men acquire of Oriental languages?—We always consider that the least qualification they bring from either Addiscombe or Haylebury; the great object of the Government in India has been to get the Government of this country to leave it to them to train the civilian up in the knowledge of the Oriental languages, and not to throw away any of his time while in this country in acquiring what is called a rudimental knowledge of the native languages; a civilian or any other man in India will acquire a better knowledge of the native language in one month in the country itself, than he could possibly acquire under the best tuition in this country in six months.

9682. If there were any persons not in the covenanted service who had lived there and had acquired a perfect knowledge of the language, who bore good characters and were fitted for the service, would there be any objection to the employment of such persons in posts of responsibility?—Certainly not, with a reservation of what may be called the just rights and claims of the covenanted servants.

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9683. And if such persons as I have described were connected a little with business and enterprise of the country, that would be again an advantage, would it not?—Unquestionably it would be an advantage to employ to a larger extent than Government have done European settlers out there as assistant magistrates or justices of the peace.

9684. I suppose there is something like an *esprit de corps* among the civil servants?—A very considerable one.

9685. You have spoken of antagonism between the settlers and the European civil servants?—There has always been a degree of antagonism between the two classes.

9686. Perhaps there is something like social distinction recognised?—A great deal; there are 600 civilians in the Bengal Presidency, and they occupy the position of the aristocracy in this country.

9687. But if some of the sons or relations of the capitalists settled there got into the public departments, perhaps there would be more equality?—Yes; if there were an opening for them into those departments, no doubt that would tend in some degree to allay the feeling that now prevails; everything resolves itself into a question of caste in India.

9688. I think you state that the magistrates are very young when they are appointed?—Latterly the magistrates in Bengal (I am alluding particularly to Bengal) have been very young men, much too young to fill so responsible an office.

9689. Is that a new policy on the part of the Government?—It is not exactly a policy on the part of the Government, but it arises from the separation of the office of collector and magistrate; and from the peculiar construction of the service, the age of the magistrate has become more and more diminished; that is to say, men have been appointed to these offices at a younger age than they were formerly.

9690. So far, then, the service is deteriorated; men less competent for their duties are appointed?—They are generally young men of great zeal and activity, but they have not the judgment, or stamina, or the experience necessary for the office; and it is unquestionably a great grievance that men of 24 or 25 years of age should be appointed magistrates over a very large district.

9691. We have been told by one witness that the character of the police depends very much upon that of the magistrate; that a really efficient magistrate has such an influence over the police, that he almost determines their conduct and character?—Not altogether; there is no doubt that an able and energetic magistrate will keep his police more in check, and render them more efficient than a man who does not care for his duty; but still the police is most essentially deficient in moral character and integrity.

9692. But it is a matter of necessity, is it not, to appoint these young men; they cannot under the present system get persons more competent?—You cannot obtain men more competent for the office of magistrate, because those who are more competent are already in possession of higher offices.

9693. I think you have said there would be a denial of justice if justice was administered in the English language, but I did not understand why?—Because everything must be carried on through the means of an interpreter, and the administration of justice would, in fact, be in the hands of the interpreter; everything would depend on the representation he made to the judge; my reason for using the term "denial of justice" was, that I do not think there can be any real justice where the person seated on the judicial bench has not a perfect knowledge of the language and character of the people.

9694. But you state that these judges have a perfect knowledge of the language? —I think they have.

9695. That would be known, would it not, to the persons who were in court, parties or others?—They do know it now; but if you were to introduce the English language into the courts, and place a man upon the bench who knew nothing but English, and was to dispense justice to the people through the means of an interpreter, the natives would have no confidence whatever in the administration of justice, nor do I think that the judge himself would be able really to do justice.

9696. Did

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9696. Did you not say that there was the most perfect confidence in the purity of English judges?—I think there is throughout the country.

9697. If it is known that the judge will administer substantial justice, and that he understands the language thoroughly, would you adhere to the opinion that there would be a denial of justice if the proceedings were conducted in the English language?—That is supposing the judge on the bench to be perfectly acquainted with the language of the country, and in that case I would ask what is the object of using the English language.

9698. But you would not adhere to the opinion that there would be denial of justice?—No; that was said under the supposition that the judge was totally unacquainted with the language of the country.

9699. I take it for granted that the judge understood Persian when the proceedings were conducted in that language?—Yes.

9700. And did the people believe that there was no justice done then?—I cannot say they believed that no justice was done, because a greater number of the natives were acquainted with the Persian language than are now acquainted with the English language. I would state generally with regard to the language of the courts, that under the present system, where everything is conducted in the language of the people, where nothing is spoken in the court, where not a word is addressed to the bench, or by the judge to anyone, which is not universally understood, there is a degree of confidence felt by the people which you could not secure if you were to make English (a foreign language) the language of the courts.

9701. You would say, then, that the people are quite satisfied with the present system?—As far as it is conducted in their own language; but we want great improvements in our judicial system.

9702-3. But the system is one which you say is calculated to give confidence to the people?—So far as the use of the native language is concerned; not the general administration of justice, because if there is one thing more than another that the natives detest, it is the system of law we have introduced into India; it is considered by the natives throughout India as the curse of the country; you will find it mentioned in every paper that was published during the mutiny, that the natives were anxious to get rid of us and of our courts. In fact the system of law which we have introduced since Lord Cornwallis's time is so thoroughly complicated, that it is scarcely possible for a native to obtain justice under it.

9704. Do they consider that we interfere at all with their caste by our system of law, or what is it that they object to?—What the natives object to is our complicated and technical system of law; in short, exactly in proportion as the law in India approximates to the system of English law, it is abhorrent to the people.

9705. You are alluding to procedure?—Yes, I am alluding to procedure; I would mention that in the Punjaub, where we have a simple code drawn up by Mr. Montgomery, which is comprised within 15 sheets of foolscap, the natives are much more satisfied with the procedure of our courts, and there is more substantial justice done than in the old provinces, where you have 15 folio volumes of statutes at large.

9706. You want something more speedy?—Something less expensive, more simple, and more speedy. The fact is, that the first wish of an orientalist is that mentioned in Scripture, "that the king shall sit in the gate giving judgment."

9707. You do not mean that justice is not done, but that they do not like the delay?—No, and the complication.

9708. You have not any idea, have you, that it was our system of law, or anything that we have done with respect to the courts of justice, that made them disaffected or led to insurrection in the country?—The natives have always had the very strongest dislike to our system of law; but I do not think that that has had anything to do with the present mutiny.

9709. You do not dispute that the investigation of titles has caused some irritation?—The investigation of titles has been closed for 22 years; I believe it was brought to an end in 1836, and therefore, whatever feeling of irritation it might have created at that time must have in a great measure passed away; I do not think, therefore, that it was at all the cause of the present mutiny.

9710. I presume the prominent cause was an idea that we were interfering with

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with their religion?—I do not think that that had anything to do with it; but the mutiny is a very wide question, on which there is the greatest diversity of opinion. I do not think that the natives put forward that as an objection to us. They themselves did not think that we were interfering with their religion, except in regard to that one point of the greased cartridges.

9711. But suppose that were carried to a greater extent than it is now, should we have anything to apprehend from our countrymen interfering with the religion of the people; that they would become more disaffected than they are at present?—I think that if the Government of this country, more especially at the present time, when we are going to inaugurate an entirely new system of things, were to declare that the Government was a Christian Government, governed upon Christian principles, but that it gave perfect liberty of conscience to every individual in India, this would have a very salutary effect upon the country, and the Government would thus be enabled to refer perpetually to this proclamation on any occasion of a future panic, because we must not suppose that in time to come there will not be such panics, and that native fanatics will not arise, and endeavour to persuade the people that the Government are about to change their religion.

9712. There is no instance, is there, within your knowledge, of any settler, capitalist, or indigo planter, or other, offending their prejudices or interfering with their religion?—I do not consider it an act of interference if a man is not armed with public authority.

9713. But it is not the custom of our fellow-subjects there to insult the religion of the people, is it?—No; on the contrary, I think the feeling is rather too much on the other side; at the same time there are many pious missionaries employed throughout the country, two or three hundred, who have been very successful in making converts, and throughout this mutiny the missionaries have been invariably treated with a degree of respect quite unexampled.

9714. You have told us that you have read through a great deal of the evidence we have taken here?—I read the evidence of Mr. Freeman, Mr. M'Kenzie, and Mr. Theobald; and I guessed the rest.

9715. But you do not point out any passage in the evidence to which you offer any contradiction, or with which you disagree?—No; I read over the evidence in order to ascertain what were the particular points on which the Committee seemed to require information, in order that I might rub up my own recollections.

9716. Mr. *Mangles*.] Do you agree with the evidence that has been given?—You have had evidence of two different characters.

9717. Mr. *J. B. Smith*.] As regards roads, is there, in fact, any other metalled road from Calcutta except the Grand Trunk Road?—I do not think there is, not to any great distance from Calcutta; there is one on the Barrackpore road.

9718. What distance is that from Calcutta?—About 16 miles.

9719. With the exception of the Grand Trunk Line, and this line of 16 miles, in that great centre and seat of Government there are no other roads?—No other metalled roads.

9720. You have been asked about bridges; do you know Mugra?—Yes.

9721. That is about 40 miles from Calcutta, is it not?—Not quite so much.

9722. Is there a bridge there?—There was a bridge, which was broken down by the floods.

9723. Was that bridge built by the Government?—I am not quite certain; I think I have heard that it was built by public subscription.

9724. Was it not built by the Rajah of Burdwan?—I could not answer that question with confidence, without reference. I believe it was built by him.

9725. But it was washed away?—Yes.

9626. And the Government have never rebuilt it?—No, because the railway runs alongside of it.

9727. Are you aware that, notwithstanding the fact that that bridge has been washed away, the Government levy a heavy toll at the little toll-bar just above the ferry?—Yes, I have paid the toll myself.

9728. Are you aware that travellers on the Grand Trunk Road are often detained at the edge of the river for many hours, both in the day and night, before

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before they can get across by means of the ferry?—I do not think that is often the case; I have heard very few complaints of that nature from travellers; the rivers during the rains swell suddenly, and there is then very great difficulty in obtaining boats to cross.

9729. Are you aware that within 320 miles of Calcutta there are seven rivers without bridges?—On which road?

9730. From Calcutta on the Grand Trunk Road?—I was not aware that there were so many, but I know that several of the rivers and streams are unbridged.

9731. Do you mean to say that in consequence of railways it is no longer necessary to have bridges across the rivers, occurring in the line of the roads?—Not on the Grand Trunk Road; on the Grand Trunk Road the proximity of the railway almost supersedes the necessity of establishing bridges where you have one for the rail; the fact is that the railway will almost supersede every other kind of carriage.

9732. Do you mean to say that the railway runs alongside the Grand Trunk Road?—No; because it branches off from Burdwan to the banks of the Ganges, but it will perform the functions of the Great Trunk Road.

9733. What is the distance between the railway and the Grand Trunk Road?—Perhaps 100 miles or more; but the Grand Trunk Line of communication from the North-west Provinces, as soon as the railway is finished, will be the railway; all our communications almost will be made by that route, and I think you will find the Grand Trunk Road deserted by passengers and by traffic.

9734. Do you mean to say that in all cases where there is a railway within 200 miles there is no longer any necessity for Government to build bridges in order that people may pass along the roads?—I do not say that; but as to the Grand Trunk Road, I say that the whole of the railway in the Gangetic valley is in progress; and with the prospect of having it opened in two or three years, the Government act wisely, I think, in not incurring the expense of bridges throughout the line of the Grand Trunk Road.

9735. You have given an opinion that it is not desirable to exclude natives from offices under Government; do you think it is just to exclude them also from a fair share of the emoluments of office?—I think they ought to be paid according to the position of life in which they move.

9736. You are aware, are you not, that in this country we pay all our judges high salaries?—Yes.

9737. And also retiring pensions?—Yes.

9738. And that the reason for that is, that they are the men who have the control of our lives and property, and that therefore, as a matter of policy, it is wise to place them in such a position of independence as will remove every temptation to do wrong; do you not think that the same policy, if pursued in India, would result in the same manner as it has resulted in this country, in producing a highly independent and just body of judges?—Does your question apply to native judges?

9739. Yes?—I think it would be; 750 rupees a month to a native is quite as much as 2,500 rupees to a European; it enables the native to occupy the same position of respectability and dignity in his own circle as a European with three times the amount.

9740. But 2,500 *l.* a year is not the salary of a European judge; it is double that, is it not?—Two thousand five hundred rupees a month is 3,000 *l.* a year; a civil and session judge has 2,500 rupees a month, and in some instances rather less, and in no instances more.

9741. Have not the judges of the Sudder Court more than that?—Not the civil and session judge; the judges of the Sudder Court are paid from 4,000 *l.* to 5,000 *l.* a year.

9742. And what are the judges of the Supreme Court paid?—I think the Act fixes the salary of the chief justice at 8,000 *l.*, and the puisne judges at 6,000 *l.* a year.

9743. You have stated that there is a great improvement of late years in the education of the native judges, do you find that that improvement in education has also improved the morals of the judges?—To a certain extent it unquestionably has.

9744. Do you not think that improved emoluments would have a great tendency

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tendency to place them beyond the danger of temptation?—I think that the emoluments of the native judges might certainly be increased, but it is not necessary to place them on an equality, in point of actual salary, with the European judges, because they are in their own country; they have not the same expenses as European judges in the covenanted service, and they are enabled to maintain with one-third of the salary the same position in society and the same dignity as the Europeans do.

9745. Complaint is made of the corruption of the native judges; is it not the fact that the officers of the East India Company during the period when they were underpaid, were also very corrupt?—So Mr. Courtenay Smith said to the House of Commons.

9746. And is it not the fact?—They were unquestionably corrupt.

9747. You have stated that of late years there has been a great improvement in the Government of India, and you attribute that in some measure to the discussions in the English Parliament on Indian affairs?—I think that has had some effect.

9748. Do you think of late years there has been any improvement in the conduct of the English to the natives?—I cannot say that there has not been, I think there has; perhaps a greater kindliness of feeling was beginning to grow up between the natives and the Europeans, but that has been entirely swept away by this mutiny; the feelings of the European population in India, whether in the covenanted or uncovenanted service, whether in the service or out of the service, have undergone a total change in consequence of this mutiny.

9749. Is it not the fact, that the behaviour of the English to the natives is that of great contumely?—On the contrary, the behaviour of the civil servants to the natives has been marked by a great degree of kindness, but that which the natives object to in us is just what the foreigners object to—our brusque and haughty English manner.

9750. I am speaking of the English people at large; of those who are settled there?—There is the English brusquerie and the English loftiness of character, which an Englishman carries about with him all over the globe.

9751. Do they not kick and knock them about, and call them niggers, and other opprobrious names?—That is a term which I have heard applied to them only within the last three years.

9752. Is it not common to hurt their feelings by the use of brutal language being addressed to them?—All this is almost entirely new to me; young boys fresh from Addiscombe, and unaquainted with the habits, manners, and feelings of the people, may sometimes have done so; but I thought that the conduct of Europeans generally towards the natives was characterised by extreme kindness and gentleness.

9753. Do you not think it a great evil that young boys should be sent out to administer justice in India who have had no experience of mankind or any knowledge of the world?—If you have a civil service you must have men trained, and you must send them out at an age at which they shall be capable of forming new associations in the country. A man going out at the age of 25 or 26 would not fall in with the associations or habits of the people of the country. You must, therefore, submit to the little disadvantage of the men being, in a measure, under age; but no man can be appointed as a magistrate before he is 25 years of age. The earliest age at which they go out is 22; and I question whether, under any circumstances, a man has been appointed to office, even among those who are considered the youngest magistrates, of much less age than 26 or 27.

9754. You do not deprecate discussions in Parliament on Indian affairs; but you think, on the contrary, that they are rather attended with benefit?—We in India entertain a very different opinion as to the value of Parliamentary discussions from what you do in England.

9755. Have you not said that the Government in India were induced to make more roads than they otherwise would have made in consequence of the discussions which have taken place in the British Parliament?—What we understood was, that Mr. Bright made a great noise about it in Parliament, and that Sir C. Wood wrote out to the Government, and told them that they could not spend too much money on roads; and the consequence was, that in three years they exhausted the treasury and upset the coach.

9756. But if it had not been for those discussions you would have had no roads, would you?—And we should not have had the loans.

9757. Might not the Government have made those roads in a very different manner from what they have done, without causing any embarrassment to the finances of the country, by raising the money on loan instead of taking it out of the revenue?—The Government must eventually resort to that, for it is impossible for them to carry out these public works in India without a surplus revenue, which it is not likely they will have for the next 10 or 12 years.

9758. Mr. *Gregson.*] Are there any obstacles offered by the Government to Europeans proceeding to and settling in India?—None that I am aware of, or that I have ever heard of.

9759. Are there are any obstacles in the climate, or in the want of security to persons or to property?—There is no obstacle to their taking up their residence there; but there is every obstacle to their going out as colonists, and planting the hopes of their families in that country.

9760. Are there any inducements to attract capitalists to go to India?—The inducement is a beneficial return for their capital.

9761. Can capital, in your opinion, be safely and profitably employed in cultivating, or in assisting the natives to cultivate, the land in India?—That is a very difficult question to answer, because our revenue laws in India do certainly present an obstacle to the employment of capital in land. As I have already said in the course of my evidence, until the Government are enabled to alter the sale laws, and to give to the putnee tenures (the only perpetual leases we have in India) a degree of perpetuity and security, Europeans cannot well lay out their money there in land; while these putnee tenures exist, there will be few sales of a zemindaree tenure in India. The only way in which a European can employ his money in connexion with the land is by taking a putnee tenure, and in order to induce him to do that it is indispensably necessary that the Government should so far modify the law that this tenure shall not be cancelled whenever the zemindar himself chooses to make default.

9762. In the event of the tenure being altered in the way you suggest, would there be an inducement for capitalists to go out and invest their capital in the purchase of land?—I think so.

9763. Would you recommend them to go and settle in India with their families?—I do not think you will find any man advising an Englishman to go out and settle as a colonist.

9764. Not in the upper provinces?—No; there he would have no scope for the employment of his capital.

9765. In Bengal?—There the climate is entirely against it.

9766. And in Bengal proper the land is fully occupied?—Yes; and unfortunately the land is over populated. The great difficulty we have in Bengal arises in a great measure from the pressure of the people upon the means of subsistence. If we could provide a good system of emigration, and take off the surplus population of Bengal, and carry it up to Assam, or Tenasserim, or Pegu, we should relieve Bengal from that which is at present a very great disadvantage, and extend cultivation throughout provinces which scarcely pay their expenses now.

9767. Have you known families of Europeans live in India beyond one generation?—It has been said that the European constitution cannot survive the third generation.

9768. Not in Bengal nor in the upper provinces?—No, nor in the plains either of Bengal or the north-west provinces.

9769. *Chairman.*] You have mentioned that there is a want of labour in Tenasserim and the more distant parts of India; do you not think it is very desirable to give easy means of access to those provinces which are in want of labour, from Bengal, where labour is superabundant?—I think that that is one of the very first wants of the country, and I hope it will be impressed on the new Government that the sooner they adopt a system of emigration from the lower provinces of Bengal to these provinces, either to Assam or to the Tenasserim provinces, or more especially to Pegu, the better it will be for the country. It is of no use to enact laws for the protection of the ryots; a zemindar laughs at them; he knows that nine-tenths of the population, or more than nine-tenths, depend entirely upon the culture of the soil for the means of subsistence, and he knows that if one ryot refuses to accept land on the exorbitant terms he asks, there are ten who will be ready to step into his place; that, of course, neutralises all the laws that have been passed for the benefit of the ryot. But if the tables were turned, and the surplus population were carried into those countries where they are required, the zemindar would be immediately obliged to conciliate the ryot, and that would produce a greater improvement in his condition than all the laws we could make.

9770. It is a social evil to be remedied, you think, by social means, and not by legal enactment?—I think that the evils under which the cultivators in the lower provinces labour, are more of a social than of a legal character.

9771. They are evils arising from the state of society?—Yes; I would mention in exemplification of what I have now stated, that in the province of Chittagong, where the natives are oppressed by their zemindars, and a man is happy to obtain subsistence on two or three rupees a month, those very individuals, if they can get away into the neighbouring province of Aracan, can immediately earn four or five times that amount. A man who is the most abject slave imaginable in Chittagong, becomes an erect independent man as soon as he gets into that province.

9772. The machinery by which you must improve the position of the ryot and diminish the preponderating influence of the zemindar, must be, in fact, raising the rate of wages?—Yes; and you cannot do that without taking off the surplus population.

9773. You want facilities for doing so?—Yes.

9774. And you think that there might be greater facilities given?—I think that the Government, as they have an emigration agency in Calcutta for sending our surplus population to the Crown colonies, might establish an agency of the same kind for sending the surplus population to our own provinces likewise.

9775. In referring, apparently, to the evidence given before this Committee, you appear to imply that some part of it conveyed an idea of the exclusion of natives from every object of ambition in their native land, and also that appointments to the office of judge and other civil offices, were suggested by witnesses examined before this Committee, to be conducted entirely through European agency, you did not intend to state, did you, that that was the meaning of the witnesses?—No; I merely intended to place upon record that which has always appeared to us out in India to be a grave fact, that you cannot deprive the natives in their own country of all those prospects and objects of ambition which they enjoyed under their own native Governments.

9776. You agree, do you not, with those who think that a judicious infusion of European superintendence generally, would be a benefit to India?—Very much so.

9777. Do you think that the character of the planters has improved within the last 30 years or so, and that it is still improving?—I have reason to know that it is very considerably improving. Twenty-five years ago we had nothing but faction fights among the planters themselves, and between them and the zemindars; for one such fight that we have now, we had 10 formerly. There certainly, therefore, has been a very great improvement in the character of the European settlers.

9778. You have alluded to what you very properly term wars between the planters, were not those wars very much produced by the want of a due limitation of the boundaries between the estates?—Almost entirely; the fact is that the Court of Directors when they gave their sanction to the permanent settlement used this pithy expression: "You seem to have dispensed with the necessity of defining any boundary;" and so the permanent settlement was made without the definition of a single boundary.

9779. A survey, therefore, and a registration would seem to be most desirable?—Yes; and, if it were possible, it would be desirable to add to that a partition of the Government revenue upon each separate portion of the estate.

9780. It, therefore, was not so much the quarrelsome propensities of the planters as the want of an ascertained boundary that occasioned the wars to which you have referred?—Perhaps both causes combined to produce them.

9781. You have mentioned the use of those pacific gentlemen called lattials; was not that occasioned by the conduct of the police?—The police were certainly not strong enough to give the necessary protection.

9782. I understand you to say that you object very much to English being adopted as the language of the Mofussil courts?—Yes.

6783. But,

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9783. But, as a question of national policy, you probably would not object to the gradual introduction of the English language, wherever it can be safely introduced?—I think we cannot cultivate the use of the English language too extensively throughout the country, because we have found, wherever it has been thus cultivated, that it has resulted in weakening the prejudices of the people, and, to a certain extent, in giving them a principle of fidelity; but we do most strenuously object to turning courts of justice into seminaries for instruction in English.

9784. Lord Auckland, I believe, abolished the use of the Persian language as the legal language of the courts; is the language which is now used in the court, and by the court itself, always understood by the people by whom the court is frequented?—I believe it is; in Bengal there may be individuals who do not understand it. There may be men from Hindostan who do not understand Bengalee, or men from Bengal who do not understand Hindostanee; but the language which is used in the court is the language which is current in the province.

9785. You have stated that in your opinion barristers are not desirable as judges, and that a judge is much better from having been first employed as a collector. Would not a collector be better for having had some previous legal or rather juridical education?—We have always wished that they should receive that preliminary education in this country before they were sent out. I think that every civilian instead of wasting his time in endeavouring to gain a knowledge of the oriential language, which he could never obtain to any purpose in this country, should devote his time to the acquisition of that elementary juridical knowledge which would be of use to him in his future career.

9786. You seem not to approve of a suggestion which had been made to the Committee, that the redemption of the land-tax might be allowed; do you think it would be well to allow the free purchase in fee simple of uncultivated lands by the Government?—I think there can be no objection whatever to that; but there is no uncultivated land in Bengal, that does not belong to some zemindar, except the Sunderbunds.

9787. But in parts of India there are such, are there not?—The Government have in Gurrockpore and other places encouraged settlers, and if the Government were to sell the land out and out, it would be, I think, a great advantage; but the great question that has been raised, both in this country and in India, is whether it would not be advisable for Government to sell all the land in Bengal for the sum of some 75,000,000 *l.* or 80,000,000 *l.* sterling, and pay off their debt. It is a very important financial question, and I believe that what Mr. Theobald says is very true, that the Government would very likely be obliged to lay on other taxes after having allowed the public to redeem the land rent.

9788. Mr. *Mangles*.] An honourable Member asked you whether you pointed to the evidence of the gentlemen who have gone before you as witnesses, or to any part of it, as differing from them. Did you mean by the answer you gave to that question to represent that you differ in opinion from Mr. Wyse, Mr. M'Kenzie, Mr. Theobald, and Mr. Freeman?—I made that remark in reference to the evidence that has been given partly by Mr. Baillie, and by Mr. Hawkins, which appeared to be rather on one side, as contradistinguished from the evidence given on the other side. I must say that I do generally coincide with the evidence given by Mr. Hawkins and Mr. Baillie, and to a great extent with the evidence of Mr. M'Kenzie; but, generally speaking, to the assertions made in Mr. Theobald's and Mr. Freeman's evidence, I could not give my assent. At the same time there are some parts of their evidence to which I should give my full concurrence; more especially where Mr. Theobald says, that the insecurity of the putnee tenures is a considerable obstacle to the application of English capital to the improvement of land.

Veneris, 23° *die Julii*, 1858.

MEMBERS PRESENT.

Mr. Campbell.	Mr. Mangles.
Mr. William Ewart.	Mr. John Benjamin Smith.
Mr. Gregson.	Mr. William Vansittart.
Mr. Kinnaird.	Mr. Villiers.
Mr. Lowe.	

WILLIAM EWART, Esq., IN THE CHAIR.

John O'Brien Saunders, Esq., called in; and Examined.

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9789. *Chairman.*] IN what part of India have you been?—I have resided mostly in the North Western Provinces.

9790. When did you go?—In 1827.

9791. When did you return?—I returned in 1852.

9792. Were you in the North Western Provinces during all that time?—I was.

9793. In what capacity were you there?—As an indigo planter and merchant.

9794. Are there many indigo planters in the part in which you were?—Very few.

9795. Will you describe the exact locality?—In the district of Allygurh, in the centre of the Doab, near Agra.

9796. What is the extent of settlement by Europeans in the North Western Provinces?—There are very few. I do not think that, in the Doab and Rohilkund Provinces, there are more probably than 30 or 40.

9797. Has their number increased?—No, it has decreased.

9798. Can you assign any cause for its diminution?—The failure in trade. The competition of Bengal has affected the interests of the trade in the North Western Provinces very much.

9799. Mr. *Mangles.*] The indigo there is not so good as in Bengal?—The indigo is of an inferior quality; but the production of indigo has increased very much in Bengal and Tirhoot.

9800. *Chairman.*] Do the settlers complain of any impediment to their extension of settlement there?—Of nothing but the general legislation, which affects the interests of Europeans.

9801. What are the objections to the legislation?—Principally the question of placing Europeans under native courts, and under the courts of the country.

9802. Is that in criminal cases?—Yes.

9803. Do they object in civil cases?—They do not; they object to native judges.

9804. Then do you give an unfavourable account of the present state of settlement in the North Western Provinces even prior to the late disturbances?—It is unfavourable for Europeans; there is nothing tempting for Europeans.

9805-6. How long has the indigo cultivation gone on in the North Western Provinces?—The indigo cultivation in the North Western Provinces was very large previously to 1830; after that it fell off.

9807. Did it fall off on account of the great competition?—Principally from the cultivation of an improved quality of indigo being very large in the Bengal provinces, and in those under the permanent settlements.

9808. Do you think that there is any prospect of its revival?—The only hope of any revival would be from the Great Ganges Canal assisting the irrigation of the country.

9809. You think that that will be a favourable means of restoring prosperity?—I think that it will be a very great advantage.

9810. Mr. *Mangles.*] Does that canal run through the Allygurh district?—Yes.

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9811. *Chairman.*] Will that enable you to produce a better sort of indigo?—It will enable us to produce a better sort of indigo, and will enable us to cultivate it much cheaper.

9812. Then do you think that there is a prospect of successful competition with the more Southern provinces?—It will enable us to compete on better terms with the Eastern provinces.

9813. Is your distance up in the country an unfavourable circumstance to the sale of your indigo?—The expense of carriage is not a serious thing upon so valuable an article as indigo. We are more affected by the time that is taken in the transit.

9814. Will the facilities of railways, and of communication generally, be of advantage to you?—These will be of advantage for indigo.

9815. Do the settlers complain of any particular evils in that part of the country, or of any impediments to their extension?—There is a strong feeling of the general dislike on the part of the governing officers, the civilians, as we call them, against the European settlers; nothing of particular importance.

9816. Do you mean that there is a feeling on the part of the civilians against European settlers?—I think there is a general dislike to English settlers.

9817. In what way does that exhibit itself?—In the bias against the Europeans; in their business; in the courts. A friendliness or unfriendliness towards the Europeans is immediately felt and known by the natives; the settlers there are few, and it is soon recognised whether the chief persons of the districts, the magistrates or collectors, are friendly or not.

9818. Do you mean that at present a settler would find that he was looked coldly upon by a civilian?—Yes; the natives would discover it in a very short time.

9819. Do you think it likely that it would be the case that he would be so regarded?—In many instances I have observed it.

9820 Even in modern times?—Even in modern times.

9821. Mr. *Campbell.*] On the other hand, you have found many civilians disposed to advance your interests as a settler, have you not?—I could always detect the difference immediately; and I have found many friendly.

9822. The general disposition however is unfriendly?—I think so; merely to the settler.

9823. *Chairman.*] If that feeling existed on the part of the civilian, has not it been very much diminished of late years?—I think it was diminishing, perhaps; I could not say that it was so personally; sometimes one set of officers would be friendly and another would be unfriendly; I could scarcely say that it has diminished.

9824. Could you, if required, furnish us with instances at present of such a want of fellow feeling on the part of the civilians to the planters?—I think you may observe it a little in Mr. Hawkins's evidence, where he says that Europeans would oust natives from their lands. In answer to Question 4326, I observe that he states that.

9825. Mr. *Campbell.*] Does he say that the practical effect of settlement by Europeans would be to oust natives from the land?—He says that natives would very much dislike to see Europeans in possession of the land; the European settlers would have no power to oust natives from their lands; they could only purchase land which was set up for sale by the Government officers who ousted the native proprietor.

9826. What has been the feeling generally?—I have generally found the feeling to be that they would rather sell the lands or mortgage them to Englishmen than to natives.

9827. From what cause?—The English are more liberal in their terms, and the natives would rather that they had the lands; they looked on our hold of the country as ephemeral.

9828. *Chairman.*] Do you think that the civilians entertain the idea that the free admission of settlers would oust the natives from their lands?—This is the first time that I have noticed the remark made.

9829. Mr. *Campbell.*] Practically, in your experience, in the communications between yourself as a settler and the officers of the Government, have you had means of arriving at the fact whether a civilian was favourable or unfavourable to you?—Yes; the neighbouring police would seize all my carts when I had an immense number collected for my indigo purposes, whilst there were plenty of

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carts to be had of people who had them for hire. When I had a friendly magistrate, my carts were never touched nor sought after.

9830. *Chairman.*] Do you think that the other settlers like yourself, in that part of the country, would make the same statement as you do with regard to the feeling of the civilians?—I think they would all agree with me that there is a general dislike to the European settlers.

9831. Mr. *Mangles.*] Does the Government show it?—No; I have always found that the Lieutenant-governor of Agra and the Governors-general, when I have occasionally met them, have wished to encourage the settler rather than the contrary.

9832. *Chairman.*] Have you been in Lower Bengal?—No.

9833. Mr. *Campbell.*] You have not been there as a merchant?—Not in the districts.

9834. *Chairman.*] What do you consider to be the results of the revenue settlement in that part of India with which you are acquainted?—The results have been that a very large proportion of the lands have been sold to capitalists, merchants, and traders; the land has passed from the people who have held it for hundreds of years before.

9835. Do you consider that a good or an evil?—I think that it has now been shown what a mistake it was to take away the lands from the charge of the talookdars and other large holders in the North Western Provinces.

9836. Have those landholders become officials under the Government to any extent?—Not one of them.

9837. They have not become judges?—No.

9838. Have none of the old families of that part of India come under the employment of the Government?—When Lord William Bentinck first introduced the system of employing natives as judges, he was very anxious to get the old families to accept appointments, and some of the old Mahomedans who reside on the northern side of the Doab were employed, indeed, at Agra and Allygurh; but they very soon found the rules irksome and threw up the appointments, and they gradually fell to the lot of the class of people who had been brought up in the inferior departments of the courts.

9839. How do you connect the purchase of land with the traders?—Previously to the settlements, all the small holdings were in the hands of talookdars; they were capitalists; they never were driven to dispose of their property in the way that the small holders have been since they have been recognised as proprietors paying revenue direct, holding titles in their own names, with power to alienate.

9840. Do you think, therefore, that it has been an evil to diminish the number of talookdars?—I think so.

9841. The talookdars became dispossessed of the land?—We found the talookdars originally in possession of the land there, under many different tenures and in many different shapes; but they were all rather farming leases than proprietary rights. The settlement in our districts was made with the intention of giving to the people whom we thought the real proprietors the possession of their property.

9842. Mr. *Mangles.*] The village zemindars?—The village zemindars; small holders of every description. The Government revenue was arranged in this manner, out of 100 rupees of the rent-roll, 66⅔ were taken as Government revenue, 18 rupees were laid apart for the talookdar, who was withdrawn from all authority and management of the estate, and 15⅓ remained for the recognised proprietor, for his profit and for his expenses. When the talookdar was managing, he had the difference, 3⅓ rupees, to cover the risks of season and for the profit of management. The settlement withdrew 18 from the margin for risk, and gave it to the dispossessed talookdar as a salary or allowance. The proprietor now engaging to pay the revenue had to manage the property with a margin of simply 15⅓, which was evidently not enough to cover his risks, as small holdings are much less able to meet the risks of seasons than a large estate would be; and he had thus still less than the talookdar formerly had to meet his risks. The consequence of this arrangement was, that the recognised proprietors naturally fell into debt; they were unable to pay their revenue regularly, and to meet the risks of management and of seasons. The new proprietors had never had the management of money; they had never before in their lives conducted revenue arrangements and paid money direct to the Government; and when they were entrusted with money, they were very apt to squander it. These people had money in their hands when they had never before been allowed to have a fraction; the talookdars themselves

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formerly always looked after the crops, and took very good care that nothing was cut till the revenue was paid, or secured by drafts upon a money-lender. The consequence has been that nearly all the recognised proprietors have got into debt and lost their property; they have been sold up, or their property has been mortgaged; it has been transferred under some form or another.

9843. *Chairman.*] Who are the present proprietors?—Capitalists, traders, and merchants; principally merchants.

9844. Mr. *Campbell.*] What has become of the old proprietors?—They have all fallen into the position of cultivators of the land of which they were formerly the proprietors; their position is very little altered, except that they no longer call themselves proprietors.

9845. *Chairman.*] Is the present state of the proprietor a prosperous state?—Certainly not; he has fallen into the hands of the hard-dealing money-lender. In consequence of the mistake made by Lord Cornwallis in Bengal, in recognising the zemindars as the proprietors, the mistake in the North Western Provinces was made in the contrary direction, by taking too great care for the people who were said to be the real proprietors.

9846. Mr. *Mangles.*] Do you believe that the talookdars were the real proprietors of the soil?—No; they always held it under farming leases of many kinds and descriptions, which they took advantage of during the anarchy of the times which followed Nadir Shah's conquest, and they have claimed an hereditary right of management.

9847. *Chairman.*] Who do you think were the real proprietors?—The true proprietor is the Hindoo family which has been dividing and subdividing the property for any number of years. We cannot go back to their history, but I do not think that within any period of the Mahomedan reigns these proprietors were ever managing their property separately; I do not think that they ever paid the revenue direct to Government; I think that the Mahomedan kings always found it a good policy to have managers of large estates between them and the small proprietors.

9848. Mr. *Campbell.*] The practical effect of the new settlement was to destroy that influential and respectable class, and to create a new class, which took little heed for the property, and fell into arrear and did not pay the Government rent?—Yes, they were incompetent to manage as cultivators and good managers of an estate.

9849. Mr. *Mangles.*] How could men be destroyed who had so considerable an interest left as 18 per cent. still paid to them by the Government?—I do not mean that the talookdars were destroyed; they remained there as very respectable gentlemen, receiving a handsome income, but with nothing whatever to do of any interest in the world, except to idle and to squander their money.

9850. Mr. *Campbell.*] You say that 33 per cent. was originally given to the zemindars as a protection, and that that was reduced to 18 per cent.?—Yes, these people originally received the difference, or 33 ⅓, which was supposed to be a sufficient remuneration, and also a sufficient margin to cover the risks of season and the management of the estate.

9851. But the practical effect of this new settlement has been to destroy the importance and the influence for the preservation of order, and for the prosperity of the country, of a very influential class which existed before this new settlement was made?—It destroyed their influence and interest in the management of the country; it left them nothing whatever to do.

9852. *Chairman.*] What effect has that upon the settlement of Europeans?—It scarcely affects them very much beyond this: previously to this arrangement, the persons who used to make contracts with settlers were men who were able to fulfil them, and able to give us a security for our advances, which is now not the case.

9853. Mr. *Mangles.*] After the mistake was once made of admitting these village zemindars to a direct settlement with Government, was not what has happened the necessary consequence of that mistake, and of the state of society which you have described as a perpetual division of property; is it not natural that property, under such circumstances, should gradually glide into the hands of capitalists?—It would have been natural if there had not been this zemindar between.

9854. After the mistake was made, as you called it, of admitting the village zemindars, and excluding the talookdars, what happened was the natural consequence?—Yes, it was the certain consequence.

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8955. And those sales which have taken place were not, generally speaking, sales by the collector for the recovery of the revenue, but they were an enforcement of the rights of the mortgagees?—It is the character of the natives to cleave to their lands, and when they got into difficulties they exerted themselves to the utmost to save their lands from being sold by the Government authorities. They mortgaged them, and did everything they could to retain them. The end of the mortgage was sale and dispossession.

9856. The estates have been sold, not by the collector for the recovery of the revenue, but by decrees of court in satisfaction of the mortgage debts?—Yes, generally.

9857. All these mortgagees who are now in possession have to pay and do pay the same revenue?—Yes.

9858. The settlement cannot be excessive?—The settlement is not excessive but full. In the case of the estates which I have just been describing, it is scarcely worth while for any one to purchase them, so little is left for profit.

9859. The mortgagees foreclose their mortgages and get their estates, and they make them pay, I suppose?—It is just a little better than leaving the native in possession and losing their debt.

9860. There cannot have been an excessive settlement, because these mortgagees who foreclose and get possession must continue to pay the revenue, as they enter upon the estates subject to the Government revenue?—There is still a profit remaining sufficient for a mortgagee to take possession.

9861. Mr. *Campbell.*] Is not the rate of interest exacted from these poor persons most extortionate?—I do not think it is so very extortionate as you have heard described in other parts of India. The natives of the North Western Provinces are very well able to defend themselves from oppression; they are not so easily oppressed.

9862. *Chairman.*] Is the occupation of this land by the mortgagee more or less beneficial than the occupation of it by the old zemindar?—It is very beneficial; it is of immense advantage. The towns in the North Western Provinces are increased, and trade is improved; the prosperity of the country appeared to be very much improved under the change which had taken place.

9863. To what do you attribute that?—To the traders investing money in lands; the traders finding an investment for their money.

9864. Then the demolition of these ancient talookdarees, if I understand you rightly, has been ultimately a benefit?—It has raised another class; it has been beneficial to another class of people.

9865. Has the European planter been able to obtain land?—The European planter in his own neighbourhood has taken land upon the same terms.

9866. If the old talookdarees had continued to exist, would the European occupant have been able to come in?—The European occupant would not have been able to get land so easily.

9867. Then upon the whole, if I understend you rightly, the breaking up of these kind of aboriginal feudal rights has been beneficial to the commerce of the country?—It has.

9868. Will you explain the difference between a talookdar and a zemindar?—The terms are both used very loosely; it is impossible to explain it in a few words. The talookdars in the North Western Provinces are large farmers.

9869. Then I clearly understand you to say, that however objectionable this change may have been, as a matter of general policy, it has not been without its advantages in a trading point of view?—Quite so.

9870. It encourages the settlement of Europeans, if I understand you rightly?—No, I do not think it encourages the settlement of Europeans, because they could trade with the talookdar on quite as good terms; it has made very little difference with them.

9871. But it has probably been of advantage in the employment of money by the European?—I do not know that it has made any difference with the Europeans. The Europeans do not wish to buy lands or to invest money in lands in the North West Provinces.

9872. Mr. *Campbell.*] You have stated that it is important to have a talookdar in making a contract?—It was of great advantage to Europeans.

9873. Have you lost that advantage under the new *régime*?—We have lost that advantage, and on the other hand we have been compelled to buy lands to secure ourselves.

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9874. *Chairman.*] What is the interest in the land which the modern European takes in that part of India?—He has every tenure; I hold as zemindar, and as mortgagee, and I have managed estates for the Government; I was called ameen.

9875. What observations have you to make with regard to the civil courts in that part of India?—I do not think that I can say anything too bad of the procedure of the civil courts.

9876. In what way are they so bad?—From the means of oppressing the native through the procedure of the court. Every form of false suit can be carried through by clever natives; the native judges presiding are not honest; their own friends have interest with them of which they can take advantage; and there is a general corruption of the native attendants and servants of the courts; the whole of the natives themselves are naturally corrupt.

9877. Do you refer not only to the omlah of the court, but also to the witnesses?—Yes, every one of them; I have as much difficulty with my own servants as I should have with the officers of the court.

9878. Do you think that that state of circumstances is unfavourable to settlement by Europeans?—Very much so.

9879. What remedy would you suggest for it, if any?—I do not think that there is any remedy for it; there is a remedy for the courts in simplifying the proceedings: many proposals have been made for so doing.

9880. Is there much chicanery in the present proceedings of the court?—Endless; the natives are very clever in quibbling and carrying on frauds in the courts.

9881. Do you think that a simpler and more summary state of the law would be a benefit?—Anything approaching to an Oriental system; I would give almost a despotic power to the chiefs in each district.

9882. Then you think that something more of the non-regulation system would be advantageous?—I do not know the non-regulation system, but from what I have heard of it, I believe that that is an approximation.

9883. So far as it is more summary in its character?—Yes.

9884. Mr. *Lowe.*] Do you think that a despotic system of judicature would suit English settlers?—They would not like it; but I think that it would benefit the country generally.

9885. With reference to the colonisation by Europeans, do you think that a despotic system of judicature in the district would suit English settlers?—I think that they would even prefer it to the present system.

9886. *Chairman.*] A despotic power is not synonymous with a summary power; do you not think that there might be a more expeditious mode of justice adopted?—I would rather run the risk of a little injustice to have it more expeditious.

9887. Mr. *Villiers.*] In either case would it not depend upon the purity of the judge?—It would; and the English judges are undoubtedly pure.

9888. An English settler would sooner have a pure despot than an impure judge, otherwise qualified?—Infinitely.

9889. *Chairman.*] Do you think that it would be of advantage to have a further extension of English judges in that part of India?—I would have all English judges if possible; and I do not think that it would be difficult even to get subordinates from this country on cheaper terms than the civilians for another department which is now filled by native judges.

9890. Would you then retain the native language in the courts?—I would as a matter of policy more than anything else.

9891. Mr. *Campbell.*] Practically, what effect would be produced amongst the natives by a magistrate or judge ordering his darogah to address a letter to you in the Persian language, without the usual oriental courtesies, instead of English?—The practical effect as respects the European is not good; the position of the European is very undefined in India.

9892. Have you not received Persian letters?—Yes.

9893. Whilst Persian was the language of the courts?—I have received a letter which has been addressed to me without the usual courtesies that would have been used to a native holding the same position as I did in India. There are rules in the Indian language for addresses, and the people are very particular on this subject. It is a thing which Englishmen would care very little about; but the effect on me and on my native neighbours was very different.

9894. Mr. *J. B. Smith.*] Was it intended as an insult to you?—It had that appearance.

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9895. Mr. *Mangles.*] You only mean that it would have a lowering effect in the native language if it was written disrespectfully, not if it was written respectfully?—Just so. For want of a defined position in India the omlah of the court are very apt to take advantage of it to address a European in an insulting style.

9896. *Chairman.*] Do you think that it is desirable to have a greater infusion of Europeans generally in India?—I have no doubt that it would be a very great advantage.

9897. Are you of opinion that greater European superintendence, wherever it can be safely adopted in India, should be introduced?—It is the one thing wanted.

9898. You coincide with the great majority of the witnesses in that respect?—Yes; there cannot be two opinions upon the subject.

9899. Would you extend your observation to the police?—To every department.

9900. What is the state of the police in the North Western part of India of which you speak?—Very good; it is very much superior to what I learn is the case in Bengal.

9901. To what do you attribute that superiority?—First to the junction of the offices of collector and magistrate; we have certainly the *élite* of the service appointed as collectors of the revenue, and who act as magistrates. Again the character of the people in the North Western Provinces is very different indeed from that of the people of Bengal; they are able to take care of themselves; they are men of spirit and manliness; they do not submit to oppression, or to people in authority, so easily as I understand the Bengalese do.

9902. Mr. *Villiers.*] To what race are you referring?—They are Hindoos; but they are quite distinct in their physical character. The climate is also very different.

9903-4. Mr. *Campbell.*] These are inhabitants of the North Western Provinces?—Yes; they are Hindoos and there is a very large Mahomedan population.

9905. *Chairman.*] The Bengalese are an inferior race of Hindoo?—Yes, physically, and I believe that their moral character is inferior.

9906. To what other causes do you trace the superiority of the police?—I think it is to be attributed likewise to the careful survey of the country; the country is a more open country; it has been more carefully surveyed and examined, and we know the whole of it much better, and we know the people much better than it appears to me we do in Bengal.

9907. Then there are no impediments to European settlement arising from police in that part of the country?—Not more than a certain corruption of the natives, which sometimes affects it.

9908. Mr. *Mangles.*] Is it not also true that the physical character of the country is better; that it is more traversable?—Yes, it is more open.

9909. There are not so many streams or rivers?—No.

9910. And it is not so much under water in the rains?—No, certainly not; it is not so subject to inundation. There is also a superior organisation of the police from, I believe, the better character of the officers who have been placed in charge of that department.

9911. *Chairman.*] Are those European officers?—Yes, all of them.

9912. Then not only is the condition of the people better, but the constitution of the police is better?—Much better.

9913. What is the state of the survey and registration of land in that part of the country?—It has been very close and very correct.

9914. Is that a great advantage to Europeans settling there?—A correct registration of titles and lands is very advantageous to all Europeans. Almost every field has been mapped.

9915. In your opinion, is the system in the North Western Provinces the most perfect system of survey and registration existing in India?—It is very perfect.

9916. What is the state of the roads in your part of the country?—We have a great number of roads in the North Western Provinces which have been made under the local committees, besides the Great Trunk Road which passes through the centre of the Doab.

9917. Are those very good roads?—Very good indeed.

9918. Are they also numerous?—They are numerous.

9919. How are they maintained?—They are maintained by an assessment of one per cent. on the revenue of the whole villages of the country.

9920. Does that mode of assessment give satisfaction?—No, it does not; it was

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was first assessed as voluntary at the instigation of the collectors and magistrates; but it was afterwards extended by order, very much to the dissatisfaction of the people.

9921. Mr. *J. B. Smith.*] Is that one per cent. extra?—Yes; when the settlement was made the amount of revenue was fixed, and afterwards one per cent. more was taken for the roads.

9922. *Chairman.*] How did it succeed when it was voluntary?—It was nominally voluntary.

9923. It was really compulsory?—It was.

9924. If it was really compulsory, before, they hardly suffered much when it was made absolutely compulsory by law, did they?—In the first instance they were rather pleased to comply with the views of the authorities, but afterwards when the regular payment came to be made they were tired of it, and were very much dissatisfied.

9925. Do you think that any more advantageous way of maintaining the roads could be suggested?—It would be more advantageous if the Government gave the money; they paid nothing out of their share of the land assessment.

9926. Have you any local system of taxation for roads?—There is a ferry fund in existence.

9927. Is there a constituted committee for the superintendence of the roads?—There are local committees, and they are all appointed by the Government.

9928. And the expenses of the roads were paid by a per-centage, as I understand you?—Of all the roads, except the Great Trunk Road, and afterwards the road from Agra to Allygurh was excepted from the local funds, and made by Government.

9929. What is the state of the Grand Trunk Road in the North Western Provinces?—In the Doab it is very good; from Allahabad to Delhi it is very good indeed, but when I left it was not finished from Delhi to Umballah.

9930. Have the Grand Trunk Road and the other roads been an improvement to the country?—An immense benefit.

9931. What is the state of the bridges on the Grand Trunk Road?—The bridges have all been improved between Allahabad and Delhi. In the first instance, they were insufficient, but they were afterwards extended and improved.

9932. The roads are now well bridged?—Yes, very fairly in the Doab.

9933. And the bridges are all complete?—Yes.

9934. Mr. *Campbell.*] We had it in evidence the other day that some of the bridges on the Grand Trunk Road were incomplete?—Between Mirzapore and Calcutta the bridges are not complete.

9935. *Chairman.*] What is the state of the sugar trade in the North Western Provinces?—There is a very large internal sugar trade, but very little of the sugar is sent to Calcutta.

9936. Mr. *Campbell.*] The consumption of sugar by the natives is very large?—Very large indeed; the demand is so great, that prices are higher in the North Western Provinces than in Calcutta.

9937. Is it not the fact, that with a high price of sugar in this country the sugar comes down the Ganges for export, and with a low price of sugar in this country the sugar goes up the Ganges for local consumption?—Yes, from the Benares district.

9938. *Chairman.*] Has the consumption of sugar by the natives very much increased?—I should not say that per head it has much increased; they always consumed a very large quantity.

9939. Mr. *Mangles.*] The population has increased?—Yes.

9940. Mr. *Campbell.*] They eat sugar as an article of food with rice?—Yes; and on all their fêtes and festivals sugar is given to the Brahmins.

9941. How much more sugar do you think that a native would consume than a European?—I have heard of the native eating enormous quantities of sugar.

9942. What may be the comparative difference between the two?—The Europeans are regular in their consumption; the natives are very irregular. I cannot state the proportions between the one and the other; the natives use as much as they can possibly get.

9943. *Chairman.*] You have no sugar-producing date trees in that part of the country?—None whatever.

9944. Have you been much in the hill districts in the north of India?—Yes; I have visited Almorah, Nynee Tal, and Mussoorie.

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9945. What is your opinion of the healthiness of those districts?—They are very healthy; very excellent for the European constitution.

9946. Do you think that Europeans could continue to live there?—I think they could on the higher ranges.

9947. Have you known European families continue there?—I have heard it doubted whether it would be possible to continue the race in the hills; there is no doubt that it could only be done on the higher ranges.

9948. Have you been through any of the passes?—Only the passes next the plains of India.

9949. Mr. *Campbell.*] To what elevation have you been?—Nine thousand feet high.

9950. *Chairman.*] What room is there for European settlement in the hills?—I do not think there is much room for European settlement there; there is not a sufficient quantity of lands to supply food for a large population in the hills.

9951. Mr. *Mangles.*] The character of the hills is very much broken and mountainous, is it not?—The declivity is very great; almost all the lands for cultivation must be terraced more or less.

9952. *Chairman.*] The declivity is very abrupt, is it not?—Yes; there is no such thing as valleys between the hills; they go down almost to narrow watercourses.

9953. Mr. *Campbell.*] Is there a cultivation of tea in those hills?—I believe that that is the only cultivation likely to succeed, and there is a good deal of it there. I understand that the tea cultivation is better on the higher ranges; that it does not require so much irrigation as the other crops do, and therefore there is plenty of land to spare not requiring much terracing.

9954. *Chairman.*] Do you think that the consumption of tea is likely to increase much in India?—Yes; I think that if there were plenty of tea, the natives would be very glad to purchase it.

9955. Is there much uncultivated land in the North Western Provinces where you have been?—None whatever.

9956. But there is, I believe, in the tea-growing provinces?—In the hills, not in the plains.

9957. Is there any other special point bearing on the inquiry of this Committee, upon which you can give us any information?—Nothing particular.

9958. Mr. *J. B. Smith.*] With regard to the new settlement in the North Western Provinces, am I correct in understanding you to say that the talookdars formerly received 33 ⅓ per cent.?—Yes.

9959. In return for that share, they managed the estate?—Yes.

9960. But under the settlement, that 33 ⅓ per cent. was reduced to 18 per cent.?—Yes.

9961. Which sum they at present receive, but they have now nothing to do?—Which sum they received as an allowance, when the property and management were taken out of their hands, and they have nothing whatever to do for it.

9962. *Chairman.*] It is a retiring pension?—Yes. In the first instance, it was understood by the talookdars that the 18 per cent. was to be hereditary; but I think during the time of Sir Charles Metcalfe the question came before him, and he decided that it should be only an allowance for life, and that it should be an open question, whether any descendants and heirs were to receive it or not.

9963. Mr. *J. B. Smith.*] Have the heirs received it?—I do not know of any question having as yet come before the Government, but that doubt being cast upon it dissatisfied the talookdars very much.

9964. In fact, they are sinecurists to the extent of 18 per cent.?—To the extent of 18 per cent., out of the 33⅓ per cent. which Government allows for the profits.

9965. Has not it a very bad effect upon the character of these men, their receiving so large a sum as 18 per cent. of the land revenue, and doing nothing for it?—It has had in every way a bad effect; it has dissatisfied them, and they are idle, having nothing to do in the world except to indulge in debauchery and opium eating.

9966. In fact they are a useless class of men?—Yes.

9967. And that in consequence of being placed in this isolated condition?—Yes; all influence being taken from them.

9968. What has been the effect of this 30 years' settlement upon the condition of the ryots?—The effect of it on the small cultivators, the newly recognised proprietors, was that having very small holdings, with long leases, and little margin for

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for profit, they fell into debt in a very short time, and they gradually were obliged to alienate their lands in many different ways, such as by mortgage, or sale, public or private.

9969. Has a new class emerged from all this turmoil which has been created by the settlement?—The result was that a new class arose in the shape of the money lender, who had never before been allowed to hold lands under any native dynasty, and who had never come into importance as a landholder.

9970. What, in your opinion, is the effect, taking a large view of the question; though there may have been a great deal of injustice to particular parties in this new arrangement, has the effect been, upon the whole, beneficial to the community?—The effect apparently was very beneficial; but the dissatisfaction and dislike towards our Government amongst the larger number of people, such as the cultivators and landholders, and people of influence in the country, was extreme at the same time. On the whole, as a simple question of political economy, it was apparently very advantageous. Probably, in a different form of society, not Oriental, it would have been advantageous.

9971. What, in your opinion, is the prospect of the result?—We know the results from the late rebellion, namely that the whole of those money-lenders, traders, and people who came into possession under mortgages and sales have been ousted, and more than one of them murdered.

9972. You do not mean to say that the talookdars have got possession of the land?—No, I am not sufficiently acquainted with the matter at this minute to say who are the people who have recovered the property; but it is only the people of influence; it cannot be the small proprietors separately. A number of villagers would join together for the purpose of ousting a new man, a man of mere capital, to get rid of him; and probably they would fight among themselves as to who should have the property; thus adding to the anarchy.

9973. You said that the people were a good deal dissatisfied with the assessment of one per cent. upon the revenue, for the roads?—Yes.

9974. Has not the effect of good roads being made through the district been very much to improve the value of their property?—I will mention a fact, from which you will see the difference between the Oriental and the English view. I was a member of a road committee when the first plans for roads were taken into consideration; the magistrate called a meeting of all the influential natives in the district to consult with him on the subject of making roads. The natives' view, in the first instance, was to make a road, say from Agra to a point on the Ganges, which appeared to us English to be of no great advantage, and on inquiring why they should prefer that line, they said that it would be a very pious work; that it would be for the benefit of all the pilgrims of Central India who came on a pilgrimage to that special point on the Ganges.

9975. Mr. *Campbell.*] What point was that?—Soron Ghat. The magistrate represented to them that that line would be of very little benefit to the commerce of the country; that it was not a good line for carrying the produce of their own districts to their markets, and that in his opinion another would be a far more advantageous line to take than the one which they wished; but they still held the opinion that it would be a very charitable thing, and best, to make a road for the pilgrims. We separated; but the magistrate carried his opinions into force, and commenced a road from Allygurh towards Agra.

9976. Mr. *J. B. Smith.*] The decision of the magistrate was, no doubt, more beneficial to the country than their view?—Yes; but the native opinion and wish was put aside; it shows the difference of opinion between the European view of what would be advantageous, and the native view.

9977. Do they not see the advantage of the facility of roads increasing the value of their produce?—Yes; but still the Oriental is essentially religious, and prefers what he thinks an act of charity and piety to other considerations.

9978. They grumble to pay the assessment, although they see the advantage of the road?—They grumble to pay the assessment, decidedly, because the Government, in their opinion, paid no share for the road, at the same time that they took a very large proportion of the rent-roll. Had it been agreed at the time of the settlement, I do not think that they would have been dissatisfied; they would have considered it as a bargain, and part of the assessment.

9979. Mr. *Campbell.*] But they looked upon it afterwards as an imposition?—As an imposition, and an addition made to the revenue.

9980. Mr. *J. B. Smith.*] Then is it the opinion generally that those who derive rent from the land ought to make the roads?—That was understood, I believe,

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in the native mind. All the time that I was in the North Western Provinces, and for some time previous to it, the roads were completely neglected up to the time when the assessment and the arrangements were concluded for making roads.

9981. We had it in evidence, I think, on the Cotton Committee from Mr. Mangles, who is a Member of this Committee, that he considered that it was the duty of the Government as the owners of the land to make the roads; but it seems that in the North Western Provinces they do not carry out that duty?—They do not do so, and the charge of 1 per cent. was made on the people for doing it. At Allahabad the system of repairing the earthworks every year after the rains was always carried on, but the natives did it; the zemindars residing on each side of the road did it; they sent out men when the rains ceased, and levelled the earthworks. That was always understood to be the duty of the zemindars; but not so further west.

9982. Mr. *Villiers.*] There is nothing peculiarly Oriental in these people wishing to have roads made, but not at their own expense; that is common to the rest of mankind?—That is common to the rest of mankind, certainly.

9983. That is pretty much what they wish to have?—They would like to have the roads made, but not at their own expense.

9984. And if it is for a pious purpose, or if you can pretend that there is a pious object as well as a commercial one in making the road, it does not seem that they would object to the assessment?—I think they would object to the assessment in the mode in which it was made, under any circumstances.

9985. You said that if it was a work of piety they would pay?—No, I did not say that if it was a work of piety they would pay. The question of assessment for roads was at an end; they were to pay undoubtedly; then they were consulted on the committee as to what line of road in their opinion would be the most favourable to commence with in the district. The intention of the assessment was to make roads throughout the district; on the committee I alluded to the question was, which line should be commenced with.

9986. But they knew that they should have to pay for it?—It was settled that they would have to pay for the roads under any circumstances.

9987. The road has been made, and the assessment has been imposed?—The road that I speak of was made, and the assessment was still continued to the very last; and other roads have been made.

9988. I suppose, after a time, they will get accustomed to the advantage of the road, and they will not object to the assessment?—They will object to the assessment as a separate charge from revenue always; but there is no doubt they like the roads.

9989. With whom does it rest to decide that matter in the North Western Provinces?—It rests with the local committees appointed by the Governor of the North Western Provinces, of which committees certain persons are *ex officio* members, namely, the magistrate, and probably the engineer officer of the district, if it happens to be in a district where there is an engineer military officer.

9990. The Lieutenant-governor appoints local committees of competent persons to decide upon the road?—Yes.

9991. Is that a sufficient authority for the assessment?—No; the assessment was an order of the Government for the purpose of making the road; the Lieutenant-governor confirmed the proposition.

9992. I take for granted there is no assessment made without the authority of the central Government?—There is no assessment made without the authority of the central Government.

9993. The people do not complain of the authority?—No.

9994. I do not quite understand why you say that the ryots are necessarily to be in debt; you say that they have long leases, that is to say, a permanent interest in the land, and that the land is generally cultivated, and that there is a great demand for the produce?—There is a very fair demand for the produce.

9995. I do not understand why they are necessarily to be in debt?—The most improvident people in the world are the people of India. Besides the amount of profit estimated as left for the proprietor, after the Government revenue and the allowance to the talookdar is provided for, there is not enough left to cover the risks even of a good management: it is barely enough to cover the risk of seasons.

9996. They are taxed too highly?—They are taxed too highly by the difference which is given away to the talookdar.

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9997. Under such circumstances, sooner than part with their land they get into debt ?—Yes, they mortgage it.

9998. And upon the first opportunity they cut the throats of their creditors ?—That is what has occurred during the late rebellion.

9999. That is not peculiar to Orientals; there is an impulse among all men to get rid of their creditors ?—Yes; but semi-barbarous nations are perhaps more eady to do it by violence than those who are more civilised.

10000. That was the first way in which they showed their disaffection lately ?—They took the opportunity. I will relate an anecdote which was told me by the Lieutenant-governor, the late Mr. Thomason, with regard to the disposition of the natives of India in this respect. I am not certain whether it was in the Bhurtpore territory, but it was in an independent native territory. There were several villages which the native chief held, dotted throughout our territory, and we had villages dotted within his territory. A proposal was made by the local collector to round off each territory by exchanging the villages within each other's boundaries: this was confirmed by the superior authorities, and the transfer was made. Several villages in our territory had been sold by decrees of the Courts; traders and merchants had become the proprietors, whilst the old landlords and proprietors had all been ousted under these sales. The moment that these lands came under the native Government, the traders were at once ousted, the old landholders took possession of their property again, and the arrangement was recognised immediately by the native Government. The traders so ousted brought suits against the English Government for the property which they had lost by this transfer, and obtained decrees against our Government. I think the question came before the Court of Directors, and I understood that orders were issued that no such transfer or bargain should ever again be entered into between a native independent state and our authorities.

10001. Will you state what is your inference from that circumstance; what is the moral of that story ?—That the old proprietors according to the native system should never be dispossessed; they invariably look to their lands under any circumstances, and will resume them whenever there is an opportunity, as a rebellion, whenever it occurs; they never lose sight of their lands.

10002. Are we to understand that the talookdars are these "old proprietors" ?—No; the talookdars in the North Western Provinces are properly speaking contractors for the management of estates, and they have become hereditary from the state of misgovernment in which the country has been for many years previous to the English conquest.

10003. Who are the persons that you call the "old proprietors" who have come back to that property ?—The Hindoo proprietors; Hindoo families.

10004. What position do they hold in the country ?—From the Hindoo law dividing and subdividing the property these people have always been little better than cultivators; but the talookdars and others holding estates in farm have always given them their land to cultivate on rather better terms than the mere cultivators who have had land for short periods of time.

10005. According to your account these must be men without wealth ?—Yes; having merely a title to these lands from family rights.

10006. Are they recognised in the country as men of ancient descent ?—They are recognised; they are generally high castes; Rajpoots and Brahmins; those are the ancient castes.

10007. Are they respected by the people ?—They are highly respected and always looked up to. There is a labouring class, a low caste, in each village, who have never had any proprietary rights; they always look up to those shareholders with respect, let the holding be small or large.

10008. What you call the labourers of course are distinct from the small proprietors, the ryots ?—They are, but many of these labourers take lands on lease from year to year from the shareholders.

10009. Have these "old proprietors," who you say are people of ancient family and without much property, rights of any kind ?—They have always a right to the division and subdivision of the land belonging to the family, and they are always looked upon as shareholders. Every village has a sworn accountant, and he keeps a record of their rights and titles.

10010. Do these men ever enter our service ?—The younger sons are many of them sepoys.

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10011. Are they officers?—No; every sepoy must enter the ranks, and rise.

10012. Do you know anything of the sepoys who came from this part of the country?—I know them well.

10013. Do you know whether they were distinguished at all by being more loyal or less so than others?—No; but I think that many sepoys returning from their regiments on furlough, and finding their property alienated, have gone back very much dissatisfied with the state of things which they found in their villages.

10014. Of what time are you speaking; during the last 25 years?—I am speaking up to 1852, which was the last time that I was in the north-west.

10015. How long had this state of things been going on before?—From the time that the talookdar's superintendence was done away with, and these people's rights were so recognised and recorded that they were able to alienate them.

10016. Then you are referring to the origin of the settlement?—Yes.

10017. What was the date of it?—1833 and 1834 were the years of the settlements in my district, but some of them were a little earlier; in Allahabad it probably might be 1829 or 1830.

10018. During all that time there has been an amount of discontent going on amongst these classes owing to the settlement?—I think so.

10019. And you think that it must have existed as much among the sepoys as among those who dwelt upon their properties?—I have not a doubt that wherever the sepoys' property was alienated, when they came back to their villages they returned dissatisfied men to their regiments.

10020. You are speaking, probably, from personal knowledge of the fact?—I knew them well; many of the sepoys were in my own villages, and they have often spoken to me upon the subject.

10021. Do you know whether these matters were ever under consideration by the Government; were any persons in authority, either in the North Western Provinces, or at Calcutta, aware of the disaffection which was being produced by this settlement?—I do not think there was any one of them who was aware of it; and when it was brought to their notice, it was invariably put down, it was pooh-poohed. I once had an opportunity of speaking to Mr. Robert Bird himself, the gentleman who commenced the settlement.

10022. Mr. *J. B. Smith.*] What was Mr. Bird?—He was the chief of the Revenue Department, the Sudder Board of Revenue; he was the author of this careful settlement of the North Western Provinces. I happened to be at Agra when he was making his rounds, and in consequence of some one referring him to me, he requested me to call upon him to speak upon the subject; and, according to my views (for I have always been against this settlement), I expressed my opinion that the breaking down of the talookdars was certain to end in an excessive dissatisfaction and disloyalty amongst the natives. I said that the result of it would also certainly be, that the small holders whom he had recognised would all be driven out, that they could not hold their lands under the terms, and that they would be all sold up for debts; and, if I remember rightly, his answer was, "We shall get rid of a complicated set of tenures, which will be an advantage to the country; we shall clear the titles, and make the land more easily transferable and saleable." That was his view of it.

10023. Mr. *Villiers.*] But the settlement was actually made, I suppose, with a view to the revenue of the Government; was not that the original purpose of it?—I do not think that that portion of the scheme was with that view, because making the revenue settlement with a poorer class, instead of a richer, was not the way to benefit the revenue.

10024. It might have been done in error; but still, had not a settlement of that sort in view, the revenue which the Government would collect?—I think their idea was to protect the ryot; it was a good intention in reality.

10025. I suppose it was before the experiment was made, that Mr. Bird said what you have narrated to us?—It was at the time when the settlement had been completed; when the terms had been agreed upon.

10026. Have the Government been satisfied with it since that time; I presume from what you say that there has been some manifestation of discontent for some years past?—I think that no one has had an opportunity of judging; all have been pleased with the settlement; it has appeared to Government to work well.

10027. Has the revenue been easily collected?—It has.

10028. Do you think that the revenue could have been as easily collected under the system which you would have recommended?—I think it would have

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been collected much more easily under the old system, with much less expense probably of establishment. It would have been much better to have had one man paying a large portion for a large estate, than a numerous tenantry paying for small holdings.

10029. Then up to the outbreak, you say that the Government had generally been satisfied with what they had done?—Yes.

10030. And had been disinclined to listen to any information upon the subject?—Not disinclined; but the views which they took were so strong, that it was believed nothing could be said with justice against it.

10031. Are you of opinion that it would be wise, even at this moment, to alter the settlement?—I think it would be wise, even at this moment, to restore in some mode influential men; call them talookdars, or any other name you like.

10032. Then we understand you to say, supposing it to have been only an experiment, based upon our political economy, that it has failed in that respect?—It has failed in that respect.

10033. I understood you that, economically speaking, it was favourable to the better cultivation of the land?—Perhaps it has attracted the capital of the trader towards the land more than before.

10034. Still, as far as I understand you, these people are very much impoverished, owing either to their bad habits or to the difficulties which they get into?—They become the actual cultivators under the capitalist; they have all fallen to the position of the mere labourer; they still work on the lands.

10035. What should you say is the general result; do you think that the produce has been greater under this arrangement?—There certainly has been an extension of cultivation; there has been no improvement in the cultivation of lands; there have been more lands brought into cultivation. Any little corners of the villages which had before remained neglected were brought into cultivation by falling into the hands of the trader.

10036. Do you know anything of the actual state at present of that district?—Nothing but what I learn from letters.

10037. They have got rid of their mortgagees?—I believe that they have got rid of all the mortgagees and all the mere money-lenders, men who have no hold and no influence whatever. I have not the slightest doubt that if they have not been murdered they have been ousted.

10038. Mr. *Campbell.*] You have property there at this moment, have you not?—Yes.

10039. Do you not hear from your correspondents what has occurred?—Not in sufficient detail. My brother has been obliged to leave; he has gone down to Calcutta, and I have not sufficient details to say what has been the result in our villages.

10040. Mr. *Villiers.*] Were you ever a mortgagee yourself?—Yes.

10041. You have advanced capital?—I have advanced capital to ryots; I have purchased in every mode, through the sales at Government auctions and also by private purchases.

10042. Did you superintend and cultivate the estate which was mortgaged to you?—We superintended the whole management of the estate.

10043. These people now you almost expect would incur debt from their very improvident habits?—I think so.

10044. So that although they have got rid of their mortgagees you cannot expect them to be in a better position?—The chances are that they will not be able to borrow money quite so easily till we introduce peace again; but the people are so improvident, that I have not the slightest doubt that they would get into the very same difficulties all over India.

10045. Have you ever had to foreclose any mortgage which you held?—The system of mortgage there is thus: The lands having to pay the Government revenue, the mortgagee takes possession on lending the money. When I lend money under a mortgage I take possession of the villages and manage them with the proprietor, rendering him an account; I take the interest of the money and I am allowed a per centage for management, accounting to him for the difference.

10046. Do you pay the revenue to the Government?—I do.

10047. And you remit to the mortgagor the difference?—Yes; the mortgagors are generally resident in the villages themselves, and superintend their own interests at the same time.

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10048. Had you ever occasion to go to law upon any matter connected with mortgages?—Frequently.

10049. What has been the occasion of litigation in these matters when you have taken possession of the estates?—The cause of litigation has generally been shareholders putting up claims for shares in the village, asserting that this man had no right to mortgage their shares; and probably the party who mortgaged to me aiding and abetting in a scheme to defraud me.

10050. Previously to your taking a mortgage, do you make any inquiry into the title?—Yes; as close an inquiry as we possibly can, and in nine-tenths of the cases I have mentioned the suits are dismissed and the parties gain nothing by them, but compel me to pay law expenses which I never can recover.

10051. Where do you contest it; in the native courts?—Generally in the native courts now, as they have got such extensive jurisdiction lately.

10052. And these native courts are presided over by native judges?—Yes.

10053. These are the people, I think, of whom you have complained?—Yes.

10054. That the whole system there is bad and impure?—It is bad to the last degree; but at the same time, as every native, let him be who he may, is anxious to pay a bribe, the temptation is very great; no man is satisfied that his case will be attended to unless he pays money, and therefore the temptation to take bribes is very great.

10055. Have you ever had occasion to complain of injustice to yourself?—I have had occasion to complain of great injustice; but I have almost always had it remedied by appealing to a court over which an Englishman presides, in the same district, or the Sudder Court at Agra.

10056. I think that you have no suggestion to make with respect to the improvement of those courts from anything which you have seen, excepting, if possible, to appoint better judges?—To get rid altogether of the natives; the native people are unfit to be judges. There are many other employments for which they are more suited; I think that their principles and their morals are such as to render them quite unfit to preside as judges.

10057. But I presume you admit that it would be difficult to put Englishmen as judges in every court?—I do not think so; it would be very difficult to place judges with the large salaries of the present civilians; but I do not think that there would be any difficulty hereafter in finding men willing to go and commence in the lower departments and rise to appointments with moderate emoluments, much less than is now paid to a covenanted civilian.

10058. Do you think that European settlers would be satisfied with anything but a covenanted servant to preside in one of these courts, if it was to be a European judge at all?—I should think that they would be perfectly satisfied with a fairly qualified European.

10059. As far as European settlers go, you think that they are not so tenacious of the covenanted servants as the Company themselves?—I think not.

10060. Would they have confidence in others?—They would have just as much confidence in any properly-qualified Englishman presiding in those courts as in a covenanted servant.

10061. Do you think that there are the means, among the Europeans now settled, to find persons who would act as magistrates or judges?—Not immediately for such a number as I am speaking of; but we have no difficulty in finding very suitable men for employment in the customs department to superintendend the lines of customs, which is a very responsible duty. Many of the officers in India are very glad to get those appointments for their sons; and I should think that if there were appointments open in the civil departments, many in India would be very glad to look forward to them for their children.

10062. Those are not covenanted servants?—No, not in the customs' lines.

10063. Do you say that those are the sons of officers?—Many of them are sons of the English officers in the Bengal army. They come from England with an English education, and not being able to get any other employment, they are very glad of that employment; they are not at all disappointed with it.

10064. Have you any experience of the Indians; that is to say, the half-castes?—I have had a great many of them in my employment; that is to say, as managers of factories and villages.

10065. Are they more trustworthy than the natives?—Certainly.

10066. Do you think that they could be well employed in the different offices?

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offices?—They are pretty nearly all so employed now; it is the only direction in which they look for employment.

10067. Would you say that their predilections would be more to side with the natives than with the Europeans?—Certainly not; they are decidedly favourable towards the Europeans. They are so treated by the natives, that they will always be so.

10068. Why should they not be appointed as judges?—Some of them make most excellent Sudder Ameens; they are very good judges indeed.

10069. Do you think that the Europeans would prefer to see them to the native judges?—I think they would; there is a prejudice against the East Indians also; some of them are said to have the education of an Englishman, and all the vices of the native; but with exceptions I have found them very good men; in my own employment I have had men in whom I have had every confidence.

10070. How are they considered by the natives?—I have heard them speak of them indifferently; but where they fill respectable positions, the natives themselves hold them in very fair respect; they occasionally hold them in contempt, speaking of them as half castes, but generally speaking, I think, where they are occupying respectable positions, they are held in very fair respect.

10071. What is the feeling towards English settlers; men who are known to bring out capital to give employment?—My own experience is, that I have always been on the most friendly terms possible with the natives; I have been on the most intimate terms, both with the Hindoos and with the Mahomedans; as intimate as with the Europeans, and always most friendly.

10072. How has it fared with Europeans in this district during the late outbreak; has their property, where it has been tangible, been destroyed?—My factories and those that I am acquainted with, have been destroyed, but it has been done by the mutineers escaping from Delhi; they were respected by the natives up to October; all the respectable natives surrounding us have respected us, and rather protected our property; I have a cousin on the northern side of the Doab, and his property was entirely protected by the natives during the whole of the mutiny.

10073. Mr. *Campbell.*] By his own people?—By his own people and by some of the neighbouring zemindars; they made indigo for him in his absence, and they gave him the indigo when he returned after the mutineers passed through.

10074. Mr. *Villiers.*] You consider these men running from Delhi, and coming into those districts, as a species of fanatics; I suppose they were for indiscriminate destruction?—The sepoys seem to have got perfectly wild.

10075. As far as you observed, what was the ground of the feeling on the part of the natives against the Europeans; was it from regarding them as hostile to their religion, or from their being a different race which they wished to get out of the country?—The Mahomedan was always hostile, but the feeling of the Hindoo was much more favourable.

10076. Do you make a selection in taking natives into your employ; do you ask whether they are Hindoos or Mahomedans?—No, I never thought of such a thing. We employed Mahomedans, because they were better clerks; they were better acquainted with the languages of the courts, which still used more Persian and Arabic than Hindoostanee.

10077. Do you say that the Mahomedans, intellectually speaking, are superior to the Hindoos?—No; merely that their acquaintance with certain laws and procedure of court, which we wanted, was more extensive than that of the Hindoo.

10078. To the Hindoo and the Mahomedan there is still a very broad distinction between themselves; is there anything like hostility between them?—No; there is always the difference of religion and of systems of food; they never eat with one another on any consideration.

10079. You do not find any inconvenience from that in the employment of them?—Not the slightest.

10080. Do you observe that settlers, or English people coming out there, have increased of late years?—No, they have decreased in the North Western Provinces.

10081. Do you know why that is?—I have stated that the trade in the North Western Provinces has been very unfavourable; there has been the competition of the Bengal Provinces in the particular line which the settlers have taken.

10082. That is accidental, perhaps, and may not be permanent?—That is accidental, and, as I have mentioned, the position of the settlers may be improved by the Ganges Canal enabling them to extend their business in that direction.

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10083. You consider that there is a fair opening?—I consider that with the Ganges Canal there will be very great opportunities for English settlers.

10084. Are there any railways?—There are no railways. Since I left, the railway from Allahabad has been commenced.

10085. Mr. *William Vansittart.*] That goes from Allahabad to very near Cawnpore?—Yes, about 50 or 60 miles.

10086. Mr. *Villiers.*] I suppose that will be a great improvement?—A very great improvement.

10087. Mr. *William Vansittart.*] Are there not some very good roads in the North Western Provinces?—Yes; there are plenty of roads made by the Road Committees.

10088. I think you say that the Mahomedans have always been very inimical to our religion?—Yes, always to Englishmen.

10089. Have they not behaved extremely ill as sudder ameens and moonsiffs during the late rebellion?—So I understand.

10090. Are you in favour of their continued employment in offices of trust?—We must employ them in certain offices, but I object to their being employed in any judicial offices whatever.

10091. What office can they hold?—Why should not they be placed in charge of estates? why should they not be allowed to take land as talookdars, and with long farming leases, which would give them an interest in the country?

10092. With regard to the conversation which you had with Mr. Bird, are the Committee to infer that, in your opinion, this outbreak may be attributed to the revenue system and the resumption laws?—No; that may be a small item in the dissatisfaction which the natives generally feel towards us, and the cause of their general dislike to our coming back again.

10093. I apprehend, therefore, that you attribute it more to the fanaticism of the Mahomedans?—The causes of the mutiny are very large, I suspect, and I myself have not had sufficient opportunity to investigate them to give a proper opinion.

10094. Mr. *J. B. Smith.*] It does not depend upon one particular cause?—Certainly not.

10095. But upon a combination of causes?—I think that one very serious cause of it is the rapidity of our reforms and changes, and meddling with the social systems of India.

10096. Mr. *William Vansittart.*] Are you in favour of Mr. Robert Mertins Bird's system of settlement?—Certainly not.

10097. You think that the perpetual settlement is much better?—Of the two it is the best; still the errors committed there are also very serious.

10098. The advantage, I apprehend, of the perpetual settlement is in keeping up the middle class, the zemindars?—That is my opinion.

10099. There is a total absence of the zemindars under Mr. Bird's system?—There is not a total absence, but a very general absence of the zemindars. The whole intention of the settlement was to break down all forms of rights which were not proprietary.

10100. I think that Mr. Bird's settlement, even by his own friends, has been pronounced to be a failure?—Yes, since this rebellion.

10101. In fact, there is a great reaction in the North Western Provinces on this subject?—Only from the results of this terrible outbreak.

10102. Are you acquainted with Mr. Charles Raikes, the Judge of the Sudder Court at Agra, and late Civil Commissioner with Sir Colin Campbell?—I am not.

10103. He says of the Punjaub system, "The Punjaub system of government, as introduced by Lord Dalhousie, and carried out by Sir Henry Elliot, the Lawrences, Mansel, Montgomery, Edmondstone, and M'Leod, is so simple, so powerful, so entirely adapted to the genius of the people, that it must, like truth, prevail, and sooner or later extend over the entire peninsula; and I believe but for the opposition of the Legislative Council in Calcutta, this simple system would ere now have been introduced as the basis of our future administration in the North Western Provinces;" do you take that view of the Punjaub system?—I do not know it sufficiently, but from all that I have heard of it, I believe that it is the first step towards simplifying our whole system of procedure.

10104. With regard to our revenue system, he says, that he thinks Government would do well to sell their land-tax to the proprietors wherever purchasers at 20 years' tax can be found; do you concur with him in that opinion?—I do

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not think that we could find purchasers at 20 years' purchase for the land-tax with the revenue system which must prevail in India.

10105. Do you not think that there are natives sufficiently wealthy to be able to buy the land-tax at 20 years' purchase?—There may be some wealthy enough; but I do not think that they have sufficient confidence in our stability to give a large sum of money for the purchase of an estate, or to give 20 years' purchase.

10106. In fact, then, your answer depends entirely upon the stability of our rule?—That, and the mode in which we govern the villages. If I were to purchase an estate in fee-simple, I should still have so much interference in the management of it by Government officers (for we must always have ryots in the villages) as not to make it worth my while to give a very large sum of money for it.

10107. In point of fact, then, if our system was changed, and there appeared to be a greater stability of our rule, and if there was the introduction of the Punjaub system, and of other systems, you think that the natives might be induced to avail themselves of this suggestion of Mr. Raikes?—I should have great doubts on the question of people paying a sufficient sum of money for the Government to accept for their revenue.

10108. Do you not think that it would very much add to the stability of our rule if Allahabad was made into another presidency?—Anything which promoted closer superintendence would be advantageous.

10109. In fact, the greater the number of Europeans in India, the stronger, in your opinion, will be our rule?—The greater the number the better, and the stronger will be our rule.

10110. That being your opinion, would you advocate the employment of young men of good family and education, if they could be procured in this country, to fill the offices of moonsiffs and sudder ameens?—Decidedly.

10111. Mr. *Villiers*.] Assuming that they were competent for the situations to which they were appointed?—Assuming that they were competent, and also that they were brought up from youth in the practice of the departments for which they were intended; they should be well qualified.

10112. *Chairman*.] Do you think, as has been stated to this Committee, that such a course of proceeding would produce great dissatisfaction to the natives?—I do not think so. At the same time we must find some employment for the natives more suited to them than civil judgeships, such as the management of estates and Customs appointments; but, generally, I think, the management of estates, with some influence and some power attached to it.

10113. Mr. *Gregson*.] You state that you have employed both Mahomedans and Hindoos; have both generally served you faithfully and honestly?—Both, I think, have pretty equally served me dishonestly.

10114. You cannot trust either the one or the other?—Neither the one nor the other. The Mahomedan when he has been dismissed, or fancied himself ill-used by me, has revenged himself with more implacability and power, and more determinedly than the Hindoo; but they are both bad; they are both not to be depended upon as servants without much superintendence.

10115. Mr. *Villiers*.] Would they serve a native master more honestly than they would a European?—I do not think so; they must make more than their pay, let that pay be what it may.

10116. Mr. *Gregson*.] In your business intercourse with the native merchants of the higher class, have you generally been satisfied with the honesty of their dealings?—Yes; the necessity of their position compels them to be honest; the banker class is honest, from the necessity of their position to be so.

10117. With respect to those parties with whom you have had the money transactions and mortgages, have you generally been satisfied with their conduct?—I have always had much trouble in every money transaction with natives not bankers.

10118. Can capital be safely or profitably invested or advanced on loan in that district?—It may be very safely advanced, where the advancer has a thorough acquaintance with the country; when he has experience.

10119. But not until after a residence in the country?—Not until after a residence in the country, and some knowledge of the people.

10120. What is the rate of interest which you get?—The rate of interest is usually 12 per cent.

10121. On mortgage?—On mortgage.

10122. Is there a want of capital in this district?—A great want of capital.

10123. Still

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10123. Still you do not think that it can be advantageously and safely invested there?—I would not recommend Europeans to go there with capital.

10124. Why would you not?—Without skill and experience of the country, there is no prospect of any profit, and a great chance of risk from the practices of the natives, and the deceptions which they would very likely practise upon a stranger.

10125. But you, after residing there some time, have been successful in advancing capital to the natives?—I have been rather more successful than a stranger would be, but it has always cost me a great deal of money and trouble in the courts; and I would not have advanced the money, excepting that it gave me the advantage of the control of the land for my indigo cultivation; it has not been for the sake of the interest on money, but to secure my advances for cultivation that I have taken land.

10126. Is there any inducement for Europeans to go there?—I think there is some inducement, from the prospect of the Ganges Canal making speculation in that country more profitable than hitherto.

10127. Will the advantages of the Ganges Canal be immediately developed? —This rebellion has cast a great doubt upon that point; but otherwise previously to it the prospects were considerably better.

10128. Suppose the country to be restored to tranquillity?—Then the Ganges Canal would be a great advantage, and would give opportunities such as we have not had before.

10129. Then you think that there would be an inducement for Europeans to go there?—I think that there would be more room for it, and a better prospect for the employment of capital than heretofore.

10130. Is the climate pretty favourable for Europeans?—Very fairly so. I have been 25 years there, and have never been seriously ill; and I have had 12 brothers and cousins residing in the same district, and I do not think that any one of them has ever suffered seriously from the climate.

10131. Of what district do you speak?—The whole of the centre of the Doab; the whole of those districts between Agra and Delhi in the Doab.

10132. In that country are cotton and indigo chiefly grown?—Cotton and indigo used to be very largely grown; but they have very much fallen off.

10133. Why?—Cotton has very much fallen off in consequence of the opening of the trade and the competition of American cotton in our Eastern markets and the stoppage of the purchases by the East India Company, in consequence of the trade being withdrawn from them. The indigo has been affected by the competition of Lower Bengal and Tirhoot.

10134. What is substituted for cotton?—The only crops which have been substituted are cereals, wheat, barley, and all kinds of grain, which is exported towards Central India, Gwalior, and the Rajpootana States.

10135. Mr. *Campbell.*] Is not Allygurh one of the hottest parts of India; the hot wind prevails there, does it not?—It is as hot as any part of the plains; it is generally about the same.

10136. Notwithstanding that, you and your family have been always healthy? —Myself and my relations have been there for very many years; great numbers of us, and have all been healthy.

10137. *Chairman.*] Have you been as much in the open air as the other planters have told us they have been?—Yes: not in the middle of the day.

10138. Mr. *William Vansittart.*] Were you ever at Nynee Tal?—Yes.

10139. It is about 70 miles from Bareilly, is it not?—I am not acquainted with that road.

10140. Would it not be an admirable site for the location of an European regiment?—I do not think so, for want of room. But speaking of the hills generally around Nynee Tal, that would be an admirable place.

10141. How far is it from Almorah?—Only about 36 miles.

10142. Would it not be an admirable thing to locate an European regiment between Almorah and Nynee Tal, as proving a most effectual guard over the whole of the important Province of Rohilcund?—I have some doubt on the subject, respecting the dangerous Turaee forests at the foot of the hills; if the regiment were required in a particular season of the year, they could not be brought down to the plains.

10143. Surely by clearing the jungle we could make a railway from Bareilly to Almorah and Nynee Tal?—You could make a railway through the jungle, but not in the hills; of course money will do anything.

10144. Mr.

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10144. Mr. *Campbell*.] Would it not be an advantage, in a sanitary point of view, to have a regiment or two regiments of Europeans located on those hills?—The advantage for health would be very great; but there are certainly six months in the year when you could not bring them down except by railway; with a railway you could do anything.

10145. I suppose it was for health and change of air that you went there?—For salubrity there is no place better.

10146. You mentioned that the competition of Bengal in the production of indigo has materially interfered with the remuneration in the North Western Provinces?—Yes.

10147. Do you not think that the Madras indigo, from its being of a like quality with the Doab indigo, has more materially interfered with it than the Bengal production?—It was the interference of Bengal in the first instance which destroyed the trade of the plantations in the North Western Provinces.

10148. Are there not other crops besides indigo which could be grown profitably in the North Western Provinces?—I do not think there are any other crops, always excepting the power which may accrue to us through the Ganges Canal.

10149. Are you aware of the price at which tea is grown in the Dhoon and the hill provinces?—I have seen Dr. Jameson's reports, which are very favourable.

10150. What may be the cost per lb.?—I think his statement was, that he could grow it at from 6 *d.* to 9 *d.* per lb.

10151. You are aware that that is a very superior quality of tea?—Yes, it is very good.

10152. Infinitely superior to the China tea, or to the Assam tea grown down in Lower Bengal?—All the Europeans in the North West Provinces give very much higher prices for it than for any other tea.

10153. What may be the price which European residents in the North Western Provinces pay for the tea?—They pay as high as 6 *s.* to 7 *s.* per lb. for it.

10154. Whereas, by Dr. Jameson's report, it is produced at from 6 *d.* to 9 *d.*?—Yes; that is tea grown in the Kumaon hills and the Dhoon.

10155. How do you account for the tea production not having a greater extension in those provinces?—The Government are the only tea growers in the Kumaon hills as yet; they still retain the whole in their own hands.

10156. If those tea nurseries were thrown open to British settlers and to British capital in the same way as the Assam tea nurseries were, do you not imagine that the tea production in the hills would become a most valuable commercial commodity?—I have not the slightest doubt of it.

10157. And that in addition to meeting the wants of the people of that country, it might become an article of export?—I have no doubt of it.

10158. Have you seen any reports of the value of that tea in this market compared with China teas?—I have not.

10159. You have stated that the condition of the North-Western Provinces is infinitely superior, as regards the administration of the laws and the roads, to that of the provinces of Bengal; would you attribute that to the extension of the European uncovenanted system, by the employment of the sons of European officers in the Customs and in other departments?—No, certainly not; when I spoke of the laws, I alluded only to the criminal and the police departments, not to the civil judicial courts; I attribute the superior condition to the fact of there being a very superior class of men in the department, to a careful selection of experienced men from the covenanted service.

10160. Would you not attribute to the minute examination made by the Lieutenant-governor of the provinces, in his annual tours and inspections of the different departments under his control, the greater efficiency in the service under him?—No doubt of it; the close superintendence has been of great advantage.

10161. There has been a much closer superintendence exercised by the Lieutenant-governor of the North-Western Provinces than by the Governor of Bengal?—I believe so; the superintendence of the Lieutenant-governor in the North-Western Provinces is excellent; I do not know what it is in Bengal.

10162. What is your opinion of opening the civil service to enterprising intelligent Europeans?—The questions with regard to that I have not carefully considered, but I think that you require a covenanted civil service.

10163. If you can get a more competent uncovenanted man than a covenanted, is there any objection to advancing him into the civil service?—There is no absolute objection.

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10164. Would it not be a benefit if such were done?—I think it would be better to confine the services for India to a good selection from England.

10165. Mr. *William Vansittart.*] I gather from your answer that you would rather keep the civil service as it is, as an exclusive service, or else alter the whole thing?—Yes.

10166. You would not have a half and half measure?—No; at the same time the alteration which has been made on this side as respects competition has very much improved the mode of selection for the service.

10167. Mr. *Campbell.*] In the system of seniority what encouragement is there for talent?—I do not think seniority has been so much respected in the north-west as to render it a very serious blot.

10168. Then qualification is more consulted in the north-west than seniority?—It is.

10169. But you are aware that that is not the practice throughout India?—That is not the rule of the service.

10170. Then you are still of opinion that whatever amount of intelligence you might find in an uncovenanted Englishman in India, though that intelligence for any particular department might be much greater than in a covenanted servant, it would not be expedient to advance that uncovenanted Englishman to a post for which he was better qualified than the covenanted officer?—I think, considering the nature of the country to be governed, and the necessity of having a good class of men for the country, you must provide yourself from England, and not be dependent merely upon the chances of finding experienced men in India.

10171. I am not contemplating a chance case; I am contemplating the existence of practically able men on the spot?—There is not the existence of them now.

10172. Has not the tendency of the East India Company been to discourage the development in India of a class that might have filled the office?—I do not think that there has been any intention to do so; but I think that that has been the result, and we have not the men, nor are we likely to have the men.

10173. If there be no encouragement for them, you are not likely to obtain them; are you not therefore of opinion that it would be advantageous to encourage them?—There is no doubt that it would be well to have Europeans if you wanted them.

10174. Mr. *Villiers.*] Do you not attach the greatest importance to having European servants?—Quite so.

10175. As far as I understand you, there is a class of service which you say is now open to persons not of the covenanted service, and you have found those offices well filled?—Yes, there are officers who are sufficiently competent for these offices.

10176. Mr. *William Vansittart.*] Are those of the natives?—No; I am speaking of the customs department; and men have been found for the patrol department.

10177. You call them uncovenanted?—Yes.

10178. Mr. *Villiers.*] These offices are filled by uncovenanted persons, and are well filled?—Yes; I do not think that the mere residence of a European in India would prevent his being a good civil servant, or being qualified for any department; but I think, remembering what is to be done in India, you must have a service in which there is a regular promotion, and a sufficient temptation for persons to seek it.

10179. As far as I have understood you, you do not require the temptation of these very high salaries to induce men to leave England for service in India?—I think there are classes of people who would go out to certain appointments of which I speak.

10180. Have you any doubt that Englishmen might be tempted, if there was an opening, to go out to India to discharge the duties of an important office?—I have not a doubt of it; but they must go out with an appointment, or the prospect of an appointment.

10181. Mr. *Campbell.*] How do barristers go to Calcutta, Madras, or Bombay, to practise at those courts; there is no prescriptive right?—No.

10182. They depend merely upon their merit?—Yes.

10183. Do you not think that the extension of that principle to India at large is perfectly feasible, when the temptation is held out of a salary amounting to 6,000 *l.*; 6,000 *l.* or 7,000 *l.* is the extreme salary of a civil servant; would not

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that offer a temptation?—I do not think that it would secure that quality of service which you require for the governors of India.

10184. Mr. *Villiers*.] You have pointed to a class of persons, namely, men born in England, but being out there, not covenanted servants, who would fill these offices; you have alluded to the sons of officers, and have spoken of it as being a good provision for them?—Yes; I said that enough could be found to fill those departments which are now filled by natives, native judges; but I think that we must still have a certainty to depend upon.

10185. Mr. *Campbell*.] How do you account for the fact, that perhaps the greatest improvements which have taken place in the last 40 years in India have been effected by men who went to India in the position perhaps of Governor-General. Are you aware what Lord William Bentinck did for India during his reign. He had nothing to do with the civil service?—Should you say that everything which Lord William Bentinck did was an improvement?

10186. The Grand Trunk Road was introduced by him?—Undoubtedly; and he was the first who introduced this great interference and meddling with the habits and customs of the natives, which has ended so disastrously.

10187. Mr. *Villiers*.] Are you alluding to Suttee?—Not merely Suttee; but it was he who approved of these revenue settlements, and of the general course of interference with the possessions of the natives.

10188. Was not the settlement made in the North-Western Provinces, after Lord William Bentinck's time?—It was approved and confirmed by Lord William Bentinck.

10189. Mr. *Campbell*.] Was not that settlement initiated by a civil servant in his character as a civil servant?—Yes.

10190. And is it fair to attribute that settlement to the Governor-General?—I merely answered your question generally.

10191. With reference to inland steam navigation, are we not indebted to Lord William Bentinck for that?—Yes; it was pressed upon him.

10192. Are we not indebted to Lord William Bentinck for the overland route?—I think not to Lord William Bentinck; I think the whole of the European community pressed it upon Lord William Bentinck.

10193. Was not it the influence which Lord William Bentinck used while in India, and when he came home, with the Court of Directors, which induced them to send out steamers overland?—Yes.

10194. Did he not introduce the medical college?—Yes; there are his educational schools and colleges throughout the country.

10195. Did not education receive a great impulse through the exertions of Lord William Bentinck?—Yes.

10196. Do we not owe the uncovenanted service, of which you have spoken so highly, to Lord William Bentinck?—I do not remember exactly; I think it was initiated in his time; in fact, I think you can trace almost all the changes which have taken place in India to Lord William Bentinck's time.

10197. Mr. *Villiers*.] Is it not of late years that you considered that there has been great improvement in India?—From the time of Lord William Bentinck; then commenced the reforms and changes.

10198. Has there not been a much greater material development in the country during the last 30 years?—Yes; the results of all these changes have been developed during the last 30 years.

10199. Has it not been the great error of the past government of the Company that they have not promoted the material development of the country so much as they might have done?—That has been the error.

10200. And has it not been very much under the influence of the British Government and the opinion of England, that that improvement has taken place of late years?—The whole thing has been pressed upon the East India Company.

10201. Mr. *Campbell*.] You have complained of the corruption, and everything else, that is bad, which exists in these courts; and I think you have indicated that by an extension of the European system in these courts that it would be avoided?—It might be less. The more of European superintendence that we had, we should have less of that corruption.

10202. If instead of native and other officers of the court, you had Europeans, do you not think that the temptation to bribery would be much less?—There would be much less bribery, if there were European servants in every department.

10203. You have said that the natives imagine that they cannot have justice done them unless they do bribe?—Yes, and they would get better informed from a European establishment.

10204. They bribe the native officials at present?—They pay the native officials on all occasions.

10205. Practically, would they attempt to offer a bribe to a European official? They would attempt to offer it; I do not think that anything would stop their doing that.

10206. Have you ever known a case of their offering a bribe to a European? —I do not know an occasion of its having been directly offered.

10207. I think you said that railways would be of great advantage to India?—Yes.

10208. They no doubt would be the pioneer to an increased European settlement?—Most probably.

10209. The state of the roads and of the laws, and the hostility of the classes, have hitherto, I gather from your evidence, stood in the way of settlement?—They have to a considerable degree disinclined Europeans to seek employment in India as merchants.

10210. The cost and risk of the transport of any commodity from Alligurh to Calcutta is very great, is it not?—Very great.

10211. River insurance is with great difficulty effected, and the cost is very great?—Yes.

10212. On the question of the revenue settlement, I believe that the East India Company, on the annexation of Oude, attempted the introduction of a similar settlement to that of Mr. Bird in the North Western Provinces?—I am not acquainted with that; I have only heard that such things are.

10213. And to the proposed introduction of that settlement you think is to some degree to be attributed the dissatisfaction of the people of Oude?—I have no doubt that the knowledge of what has been done in our territories has made them distrust us very much on that subject.

10214. If that settlement had not been made do you not think that the talookdars or ancient families who hold the land, would have been on the occasion of this sepoy mutiny a barrier of strength to our territory?—I think there is every probability of it.

10215. But instead of being that barrier of strength, they have joined the disaffected?—From the fear of being dispossessed, I have no doubt.

10216. And from the desire of being reinstated in the property which they considered as usurped?—That is matter of inference; that would not be pressing so much upon Oude, immediately.

10217. I suppose you are of opinion that safe settlement with a large native army in India can hardly exist?—I doubt it very much.

10218. And you are against the creation of a large native army in India?—As far as I can pretend to judge on that subject, I certainly think it very objectionable.

10219. You are averse, from political reasons, to introducing the English language into the courts of the country?—Yes.

10220. But you have stated that Persian or Arabic, although Hindostanee is the language of the country, is more commonly used in the local courts than Hindostanee?—Formerly the language in the courts was Persian. When the order came to introduce Hindostanee, the natives of the courts made a jargon of their own, consisting almost entirely of Arabic and Persian, with a few Hindostanee verbs, a jargon as unintelligible to the bulk of the people as Persian was.

10221. Did you not find, in your own experience, that the number of your law-suits increased or diminished with the efficiency or inefficiency of the judge or the magistrate presiding over them?—They increased with the native judges; the business of the country very much increased.

10222. With an inefficient English judge or magistrate, would there not be scope for litigation which would not exist if you had efficient magistrates and judges knowing the language and the laws of the people well?—Since the introduction of native judges, the English judges have had very little to do with first jurisdiction.

10223. Then you are clearly against the continuance of the native judges?—Decidedly.

10224. Mr. *William Vansittart.*] I gather from your answers regarding the covenanted and uncovenanted services, that you are in favour of our civil service as

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as it is at present, and that you think highly of the civilians, but that you are not satisfied with our system ?—Quite so.

10225. Mr. *J. B. Smith.*] I think you stated, that there had been a great diminution in the growth of cotton in the North Western Provinces ?—Yes.

10226. Is not cotton still grown for native uses ?—A very considerable quantity is still grown.

10227. Then the diminution in growth has been for exportation ?—The diminution in growth has been for exportation from our districts.

10228. And that exportation has been diminished probably in consequence of the high price of carriage ?—No, not altogether ; but from the very large quantity of cotton goods of all descriptions which have been imported into the country, through Calcutta, from England.

10229. Mr. *Villiers.*] Made from American cotton ?—Made from American cotton.

10230. Mr. *J. B. Smith.*] Do you think that cotton might be grown in the North Western Provinces as an article of export ?—I think that with the assistance of irrigation by the great Ganges Canal, we may be able to grow an improved cotton, suitable for exportation to England.

10231. Have you ever known any instances of cotton being grown by means of irrigation ?—I have grown it myself by irrigation.

10232. What has been the result; how much per acre of clean cotton could you grow ?—I grew a quantity of cotton, at the request of Lord Auckland, from American seeds, and irrigated them, but it was a complete failure, from the nature of the seed ; and I know that in former days, when cotton was largely exported from the country, the natives used to grow it sowing it a month sooner, and irrigating it before the rains set in, and that gave a much larger crop and a better quality of cotton than the cotton sown with the rains.

10233. As regarding your own experiments, what were the results ?—On our experiments with the American cotton seeds, they were a failure ; they were not suitable to the climate.

10234. Have you made any trial of the native seed ?—No.

10235. Mr. *Villiers.*] Did the American seed degenerate after the first year ; was it good the first year ?—The white ants always destroyed it, and we had a drought in the middle of the rainy season of the year I tried it.

10236. Mr. *J. B. Smith.*] Have you ever known instances of native seed being grown by means of irrigation ?—No, not in my time ; I only know that the practice formerly, when lands were cheaper and cotton dearer, was very common ; but it became too expensive to irrigate, and therefore the plant was entirely sown with the first fall of the rains.

10237. Is it your opinion that by means of irrigation the cultivation of cotton might be very greatly increased ?—The cotton itself would be improved, and there would be a much more certain crop by its being sown a month sooner, and irrigated.

10238. And a much larger production ?—And a much larger production.

10239. You perhaps have no means of giving an opinion whether or not it might become an article of export if it were cultivated by means of irrigation ?—I can scarcely say, because the competition with the American cotton would make it so very uncertain in the values here, that I am not sure whether we should be able to export it. The prices here fluctuate so much, that I have doubt upon the point.

10240. *Chairman.*] Your cotton, I suppose, cannot compete with the American cotton ?—No.

10241. It is used as supplementary to it ?—Yes.

10242. Mr. *Campbell.*] The Doab Canal was not commenced when you left the North Western Provinces ?—Not to supply water.

10243. The fertilising effects of that canal upon a soil so poor as many parts of the North Western Provinces are, may produce a very beneficial result ?—It is not that the soil is poor, but the whole of our lands are irrigated. Our best crops are irrigated ; our wheat is irrigated ; and if we had the command of water from the canals, probably at one-tenth of the present expense we should be able to do everything cheaper, and should be much more independent of droughts and rains, thus making the crops more certain.

10244. With that canal you may probably compete with America ?—That is a question

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question which requires experience; but with other places we should be able to compete very well.

10245. Mr. *J. B. Smith.*] Can you tell us what is the usual increase in production by means of irrigation over the dry growing?—The rain crops are very doubtful; in indigo my proceeds are three times as much from an irrigated acre as from one left entirely to the rains.

10246. Do you know what is the increase in sugar?—Sugar is always irrigated.

10247. *Chairman.*] Can you tell us the proportion of corn grown in the North Western Provinces of India as compared with the other crops?—The growth of wheat and barley is very large; there is an immense breadth of land under them.

10248. Is the cultivation of land increasing?—There is a decrease of cotton and indigo crops, but the breadth of land under cultivation is pretty much what it has always been.

10249. I suppose they are a wheat-consuming population in that part, and not rice?—Yes.

10250. I suppose the cotton grown there is very inferior to the cotton of Dharwar?—I believe it is inferior to all the Bombay cottons.

10251. Do you think that the quality of your indigo will be improved by irrigation?—The quality of our indigo has been very much improved within the last 20 years. I do not think that it will be improved more.

10252. Then irrigation will only improve the quantity of it?—It will enable us to export it more cheaply.

10253. It will enable you to come into competition with the more southern grown indigo?—Yes, we have improved our indigo very much in quality; but the expense of it is so great at present that we cannot extend the cultivation with any prospect of success, as the demand for it is limited.

10254. Mr. *Campbell.*] When produced, what is the market difference per pound between a pound of indigo produced at your own factory and a pound of the best Bengal indigo?—The difference is 25 or 30 per cent.

10255. Taking the Bengal indigo to be now at 8 *s.*, what would your indigo be worth compared with it?—Five shillings and sixpence.

10256. There is 2 *s.* 6 *d.* a pound difference?—Yes; 25 to 30 per cent. difference.

10257. *Chairman.*] Can you suggest anything which might encourage the settlement of Europeans in that part of the country?—The general improvement of the courts, and the knowledge that every one connected with the Government wished to encourage the settlement of Europeans.

10258. In fact, the converse of the policy which (according to your previous statement) has been so far a good deal adopted?—Certainly.

10259. From your experience, do you think that it is easy for Europeans to agree with the natives?—Nothing is simpler than for the capitalist to be on good terms with the natives.

10260. What in your opinion after this outbreak would be the reception of Europeans going to re-settle in India?—The feelings of dislike against the Europeans generally, I am afraid, are not promising; however, I am speaking from hearsay only.

10261. Would lands be occupied either by their former possessors or by new possessors?—The former possessors, I think, would all be found in possession.

10262. You think that the old zemindars would come back?—Yes, all of them.

10263. Mr. *Campbell.*] Would the mass of the people who have everything to lose against those who have nothing to lose, be in favour of the return of men bringing capital and order with them?—There is no doubt of it; there would always be less dislike to the European settler coming back than to the governing powers, the Mahomedan always excepted; his hatred of the Christian and conqueror is not to be overcome.

10264. *Chairman.*] Then they would most likely hail the return of Europeans?—They would like it.

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Appendix, No. 1.

The following Petitions were referred to the Committee:

Petition of the Indigo Planters' Association on the State of the Magistracy, Law Courts, and Police - - - - - - - - - - - - - - p. 229

Petition of Landed Proprietors, Indigo Planters, Merchants, and Traders in Calcutta and the Lower Provinces of Bengal - - - - - - - - - - - p. 233

Petition of British Subjects, resident in Calcutta and the Mofussil Districts of the Presidency of Fort William in Bengal, and not in the service of the East India Company - - - - - - - - - - - - - - - - p. 236

Appendix, No. 2.

Papers delivered in by William Theobald, Esq., 27 April 1858:

Revised Affray Bill and other Bills referred to in the Evidence of W. Theobald, Esq.:

No. 1.—Report of the Secretary of the Indigo Planters' Association, on the Act IV. Bill and Revised Affray and Mochulka Bill, read at a Meeting of the Society on the 5th April 1855 - - - - - - - - p. 238

No. 2.—Report of a Meeting of Europeans to complain of Disorders in the Dacca District, through the Inefficiency of the Deputy Magistrate - - p. 243

No. 3.—Report of Meeting of Indigo Planters' Association, respecting an Outrage on an European in the Jessore District - - - - - - - p. 244

No. 4.—Petition and Report on Mr. J. P. Grant's Bill to give better Security to Under-tenures - - - - - - - - - - - p. 245

On the Original Affray Bill, referred to in the Evidence of W. Theobald, Esq.:

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Report of the Committee of the Indigo Planters' Association on the Draft Bill now before the Legislative Council, entitled, "A Bill for the more effectual Suppression of Affrays concerning the possession of Property," being the Report referred to in the above Petition - - - - - - - - - - - - - - - p. 252

Appendix, No. 3.

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Appendix, No. 4.

Paper put in by Captain John Ouchterlony, 15 June 1858:

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Paper put in by Captain John Ouchterlony:

Statistical Memoir of a Survey of the Neilgherry Mountains - - - - - p. 263

Appendix, No. 6.

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APPENDIX.

Appendix, No. 1.

The following PETITIONS were referred to the Committee.

PETITION of the Indigo Planters' Association on the State of the Magistracy, Law Courts, and Police.

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To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble Petition of the undersigned Members of the Indigo Planters' Association in Bengal.

Showeth,

THAT at the annual meeting of the Indigo Planters' Association (a society whose members are settled in all parts of the lower provinces of Bengal), held in January last, it was resolved to make a representation to the Houses of Parliament on the administration of justice, and state of the law courts and police in the said lower provinces, and this petition is prepared in conformity with the said resolution. Your petitioners who have signed the petition being all members of the said association and representatives of it under the said resolution.

That in November 1852, a Select Committee was appointed by your Honourable House to inquire into the operation of the statute 3 & 4 William 4, cap. 85, "for effecting an arrangement with the East India Company, and for the better government of Her Majesty's Indian territories till the 30th April 1854," but the said inquiry was prematurely concluded; only the evidence was reported to your Honourable House, the said Committee came to no resolution on the subject matter referred, and on the 20th August 1853, nine months before the said statute expired, the Royal assent was given to the statute now in force, 16 & 17 Victoria, chapter 95, "to provide for the future government of India."

That owing to the very great extent of the subject, discouragements and difficulties in the way of giving evidence, the abridgment of the time devoted to investigation, and probably some aversion to obtaining a full disclosure to Parliament of the truth, many parts of the inquiry received scarcely any or a very imperfect elucidation, and among these were the important subjects of the administration of justice and state of the magistracy, law courts, and police in the said lower provinces.

Your petitioners deeming the ends for which courts, magistracy, and police are established to be the preservation of the peace, the security of persons and property, and the enforcement of legal obligations and civil and criminal responsibility, beg to state to your Honourable House that it is almost incredible how comparatively worthless the country courts, magistracy, and police are for these purposes, how they have failed for the enforcement of civil obligations and legal responsibility, and to how great a degree the police, instead of giving security, are the terror of the people, and instruments of oppression and cruelty.

That the said association has made representations to this effect both to the Legislative Council and the Bengal Government, and your petitioners beg here to quote and re-affirm some of those representations.

"Police, magistracy and courts are the means established, and on which all regular communities rely for the preservation of the peace, the enforcement of civil and criminal responsibility, the defence of the rightful possession of property, and expulsion or dispossession of those who have no title to it. The connexion between these means and order and security is that of cause and effect in all civilised communities. In Bengal the means are established. There is a police force, a magistracy and courts criminal and civil; but it cannot be affirmed that there is anywhere order and security. The means therefore which succeed elsewhere, fail in Bengal. Obviously, on this state of the case, a very grave suspicion [of incompetency] rests on the police, magistracy, and law courts of Bengal."

Again,

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Again,

"As to the police, there is but one opinion of it throughout the mofussil (country). In its chief duty of affording protection to persons and property, it is nearly useless. As a sword, as a shield, for defence, for attack, it cannot be trusted. At the same time it is universally reproached with many corrupt habits and practices, among them extortion on all sorts of occasions and pretences, and great venality; "and to these your now petitioners add the practice of torture.

Again,

"Such being the state of the police, the laws for the preservation of the peace are not enforced, the authority of the police is much abused, the inhabitants have to rely on their own resources for the most common protection of themselves and their possessions, and are left free in their quarrels. The poor protect themselves as best they can, by combinations and otherwise; and the propertied classes and persons engaged in traffic, by the employment of large and costly establishments. In the opinion of this committee the state of the police is in a considerable degree a cause of affrays, and of all sorts of agrarian disputes and disorders."

Again, as to the civil courts:

"With respect to the civil courts it is a general complaint on the part of members of this society, that if they obtain a decree of any court in their favour, they can rarely and with great difficulty get it executed. Those whose concerns are of great extent, speak of having hundreds of decrees which on this account are mere waste paper. The causes of this failure may be various. But some of them are in the courts themselves, or their officers or amlahs."

Again,

"Another complaint is the great length of time passed in obtaining a decree. In many cases the delay, two, three, and four years, renders a decree of no value. Another universal complaint is of the extreme uncertainty of the law, which also arises from a variety of causes; partly, for example, in the want of an authoritative text of the law, more generally in the vacillation and incompetence (and want of professional training) of its administrators; but from whatever cause, the effect is the same on the public and suitors. The general result is, that there is scarcely any certain rule of right, and the want of certain rules is general insecurity. The step from general insecurity of rights to the general practice of violence, fraud, and minor irregularities, is easy."

Again, referring to a peculiar class of grievances:

"By law under these circumstances the ryots, and the zemindar also in the case supposed, are liable to make the planter compensation. But the planters can never get compensation. They get decrees by hundreds after an infinity of trouble, they fail universally on the most notorious cases of instigation; the law, such as it is, is invalid, the legal right worthless to them. Breaches of contract and those who commit them are practically protected and favoured, while the planter, who is in such cases a manufacturer and capitalist, is regarded as an oppressor of the people. If the law on this subject were more equitable, and at the same time more effective, or if, such as it is, it were not wholly invalid, broken contracts, which are the provocations of affrays and the true causes of them, would less frequently happen."

Again, referring to a recent Act of the Legislative Council which had greatly failed:

"I have already remarked on the fact of affrays concerning the possession of land having been rendered more frequent by the Act passed to prevent them. Its intention was to provide a summary and immediate interposition of magisterial authority on a dispute happening. To crush the element of affrays before it was developed, or as soon as formed, was the legislative principle. That Act therefore may be considered a legislative declaration, that disputes concerning possession come to affrays, because, or in a degree because, there were no ready-at-hand means of obtaining or enforcing a decision upon them. Why then, did the Act fail? Plainly from maladministration or faults in the administration; and as the legislative principle of the Act was unquestionably sound, the presumption is that, with better functionaries to administer the Act, the result would have been different."

Your petitioners are aware that the recent statute (16 & 17 Vict., c. 95) provides for the appointment by Her Majesty of Commissioners, with the view of effecting reforms in the law and judicial establishments in India, and that Commissioners have been appointed, but their powers of inquiry appear to be limited. In August of the present year they will cease. They have reported without taking evidence on the state of the courts as respects the personal efficiency of the magistracy, judges, and judicial officers, and they have proposed nothing to raise that efficiency. Their attention has chiefly been directed to procedure, and except as to procedure, the principal changes proposed by the said Commissioners are, as your petitioners are informed, a reconstruction of the one court, the Suddur Dewanny Adawlut, or Chief Court of Appeal, by the amalgamation with it of the Supreme Court Judges, and the conversion of the Supreme Court to a merely local or Calcutta court, except as respects the upper provinces; and an inquiry into the state of the police appears not to fall within the scope of the said Commissioners.

That without wishing to disparage the labours of the said Commissioners, your petitioners beg to observe, that for 20 years the Legislative Council has been employed in modifying and

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and reforming civil and criminal procedure, and in remodelling jurisdictions, and during that period judicial officers and courts of all kinds, from the lowest to the highest, have undergone in these respects some legislative change. But little substantial improvement in the courts or benefit to the public has resulted; and your petitioners are of opinion that, whatever improvements may be made in procedure, a great reform of the magistracy and courts themselves, as respects the personal qualifications of all classes of judicial functionaries and in many other particulars, not falling within the scope of the said Commissioners, is imperatively needed. It is true that by the commission itself power is reserved for the Board of Control to enlarge the sphere of inquiry, but this power has not been exercised; and to your petitioners it appears that it would be of the highest public utility for your Honourable House still to institute a full inquiry, specially into the character of the courts, police, and magistracy.

Your petitioners also beg to observe that public opinion, with reference to the said proposals of the said Commissioners, in the lower provinces has been clearly expressed on several occasions in a regular or constitutional manner, on the comparative merits of the one Queen's Court of the Presidency, and the many country courts of the East India Company. That opinion has been generally condemnatory of the latter, while the Supreme Court has generally for 80 years given satisfaction to the public and suitors by reason chiefly of the superior merits and qualifications of its judges; and now the said Commissioners, in indifference apparently to such oft expressed and well-settled public opinion, propose to transfer that important part of the jurisdiction of the Supreme Court which is exercised beyond the limits of Calcutta to the unreformed country courts of the East India Company; and even as to so much of the jurisdiction of the said Supreme Court as the said Commissioners propose to reserve, it may, on the plan of the Commissioners, be exercised by those who are not even English lawyers.

That by the course prescribed to or taken by the said Commissioners, an investigation into the most important and unquestionably difficult branch of that general inquiry, which was referred by your Honourable House in 1853, to a Select Committee, has been avoided.

That in the hope of inducing your Honourable House to take up the subject, your petitioners will humbly submit a few remarks relative to the persons and classes of which the judicial body is composed. Your petitioners beg to premise that one broad distinction has hitherto run through the East India Company's entire system of civil administration in Bengal. There are two orders of public servants, the covenanted and uncovenanted, and both are employed in the judicial line. The former, supplied from England, have hitherto come direct from college or school, inexperienced in business and the world, with only the advantages of a liberal education; and with the addition, after a few months' study, of some imperfect acquaintance with the language of the people, they enter on their public duties. The duties first assigned to them (with the designation of assistant magistrates), are nominally of little but really of great significance. Though called assistants, they are in fact practically in a great degree independent, and they soon rise to an important official position; become while still young, and after being a very few years in the country, managers of the police, exercising at the same time important judicial functions, in districts of six, seven, or eight thousand square miles, and with perhaps a million of inhabitants. The uncovenanted have a different origin, and are appointed by the local government, which is comparatively unfettered in making its selections. Respecting their comparative merits the said association made several representations to the said Legislative Council and Bengal Government, and which your petitioners beg here to quote and re-affirm:

"Bearing in mind the distinction of covenanted and uncovenanted, this committee would willingly pay a tribute of praise as due to many able men in both branches of the service. At the same time the committee could not forget that there are others wholly unfit for the judicial office. Passing by exceptions, this committee must advert to the fact, that the judges and magistrates of all ranks and degrees, civil and criminal, are neither prepared by practice at any bar, nor by a scientific education in law, nor by any education at all specially designed to qualify them for the judicial office. * * * * * * * * * * * * The uncovenanted judges generally are pre-eminent in one qualification, a knowledge of the language of the people; in which the covenanted are often deficient. But the uncovenanted branch on the other hand is much complained of for (to use general terms) the want of those important virtues and qualifications which depend on the united advantages of education, and a previously respectable status or origin, and for the defects and vices the opposite of those virtues and qualifications."

And then follows the remark:—

"That in this state of the police, the magistracy and courts are agencies constantly at work tending to produce and producing disorders, and at the same time nullifying the remedies passed for their removal."

That further evidence to the same effect is contained in the petition presented to your Honourable House in 1853, from the British and Christian inhabitants of the Lower Provinces of Bengal, which said petition contains the following, among other allegations which your now petitioners beg to re-affirm, and for further explanations on the same point your petitioners beg to refer to the Blue Book printed in 1853, by order of the House of Commons, and the copy therein of the said petition:—

"Your petitioners confidently represent, that their [i. e. the covenanted] administration

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of justice is the subject of universal complaint and dissatisfaction, and which are founded, as your petitioners believe, on experience of their want of proper qualifications, and the bad quality of their decisions." * * * * * * * * * * "They come to India, and are appointed to the judicial office, without professional qualifications; for sixty years they have been in exclusive possession of the whole or some important part of the administration of justice, and yet have furnished the inferior courts with no body of general rules or principles."

With respect to the powers of the two classes. If the manner in which judicial offices and duties are divided between them is considered, it will appear that so far as the public interests are concerned they are of equal importance. Criminal judicature primarily and chiefly belongs to the covenanted class; the uncovenanted are employed in criminal judicature only with generally subordinate and inferior jurisdiction. Nearly all civil judicature on the other hand in which the revenue is not concerned, is vested in the uncovenanted, except that they are not eligible to the Sudder or chief Court of Appeal.

Here then your Honourable House has two classes of public servants in the judicial line, of totally different origins and connexions, but with (in point of importance) an equality of functions and equal want of qualifications, but there the equality between the two ends; in pay, emoluments, official designations, honours, recognition by Government, and class interests, the covenanted are placed at such an elevation above their uncovenanted brethren, that there is no comparison. On this part of the case your petitioners would again beg to refer to and to re-affirm the statements made in the said petition of the British and Christian inhabitants.

Your petitioners are aware of the great change made under the recent statute in the mode of appointing the covenanted portion of the service (no longer to be put under covenants), and they anticipate great benefits to the public from this change, especially in the diminished influence of connexions and patronage, and the increased chance which the public interests will have; but still much of the description given above will remain applicable. It will still be true that they come direct from college or college studies, inexperienced in business, with only the advantage of a liberal education, though now of a higher order; and it will still be true that after a few months study of the languages they will enter on their public duties, and after being a very few years in the country they will rise indiscriminately to posts of the greatest importance, without provision made for their fitness for judicial office. The superior merit therefore of the new civilians will probably only consist in superior capacity for learning, and the description given above of the uncovenanted branch will remain entirely applicable. Your petitioners therefore cannot see in the measures hitherto proposed respecting the courts and magistracy, a prospect which can properly be accepted in lieu of inquiry, or which renders inquiry on these subjects less desirable than when in 1852 your Honourable House referred the operation of the statute 3 & 4 Will. 4, c. 85, to a Select Committee of Inquiry.

That your petitioners beg to illustrate the importance of an intimate acquaintance with the qualifications of the judicial body and officers, while proposing important changes in their jurisdiction, by a short example, in which will appear a great contrast between the Legislative Council and Her Majesty's said Commissioners, arising from the different degree in which the Council and Commissioners are informed respecting the qualifications of moonsiffs, the inferior class of the East India Company's judges. The Legislative Council had before it a Bill for the more easy recovery of small debts and demands in Bengal, and in it was a provision that every moonsiff's court should be a small cause court for the summary trial of actions. This peculiar part of its jurisdiction not to be subject to appeal. This provision raised the question of the competency of the moonsiffs. The Legislative member produced a record from one of the courts in a mortgage suit of value *Rs.* 60 (6 *l.*), which record extended to very great length and bulk, quite a volume, the real question being whether a certain deed was executed by the defendant, which was lost sight of, and it appeared that nearly the whole course of the trial was beside the question; this record was presented as a fair specimen of the proceedings of courts of this kind. The Bill awaits a third reading, which has been delayed in consequence of difference of opinion as to the expediency of investing the existing moonsiffs indiscriminately with the proposed summary jurisdiction. Your petitioners will quote the annual report of the said Association respecting the Bill referred to:—

"The Small Cause Courts Bill has been settled in a Committee of the whole Council, and only waits a third reading, which from the tenor of the debate upon it has been deferred, probably from doubts as to the expediency of investing, as it does, the existing order of moonsiffs with the summary jurisdiction to be established by this Bill. It appears to the committee of this society that the Bill would be a great boon, if properly qualified persons were appointed as Small Cause Court judges. The Bill follows the spirit of the institution of small cause courts in England, and of the similar courts in the presidency towns, and it appears to the committee that it is incumbent on the Executive Government not to arrest this expedient and just measure, but to provide such a remuneration for judges of these courts as may induce properly qualified persons to accept the appointment." With respect to these very moonsiffs Her Majesty's said Commissioners propose to raise their jurisdiction nearly tenfold.

That your petitioners, though deeply impressed with the importance of inquiry, beg to point out some reforms as certainly desirable and likely to stand the test of any inquiry.

1. In the office of magistrate judicial duties and ministerial and executive duties are combined

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bined, and make antagonistic claims on the time and attention of the officer. In the higher office of judge also, whose duties are principally judicial, many functions are vested which are not of a judicial kind. In these cases, and generally, it would be better in the opinion of your petitioners that the non-judicial duties should be separated, and vested in an officer of a different kind.

2. That all functions properly of a judicial kind and affecting private persons, now belonging to collectors, commissioners, and others whose duties are not primarily judicial, should be taken from those officers, and transferred to judicial officers.

3. That no preference on the ground of class should be given to the covenanted class, as respects appointments to judicial office of any kind; that the judicial service should be a distinct service and be open, and that admission to it and the terms of admission should be put on a footing to attract the legal profession both in India and at home, and that it should be made an object of ambition to barristers and pleaders, European and native, who have earned distinction, or who are of known attainments, character, and talents.

4. That the responsibility of judicial officers should be restored to what it was before Act 18 of 1850 of the Legislative Council, and that that Act should be repealed; and that judicial orders of any kind, civil and criminal, should be made subject to revision for the purpose of being annulled by summary processes and motions as in English law, of which the writ of *habeas corpus* is an example.

5. That the areas of jurisdiction, sometimes extending 40, 50, and 60 miles in different directions, and everywhere too large, should be reduced, the number of courts and magistrates increased, and every town with a certain population should be a separate jurisdiction.

6. That the portion of the public service supplied from England should be specially prepared for special duties, and not employed in offices for which, like judicial office, special qualifications are required, unless they have those qualifications.

7. That certain educational tests should be applied to all judicial officers who are not taken from the legal profession, and a knowledge of English should be essential in all judicial officers and the heads of their executive establishments.

8. That every court should be provided with interpreters and translators to assist the judicial head, who should be permitted a large discretion to avail himself of them. Their importance should be more highly estimated than at present.

9. With respect to the police, your petitioners beg to quote and re-affirm the following observations from the paper already referred to, and submitted to the Legislative Council and Bengal Government:—

"Turning from these general traits to its numbers, composition, and organisation, I am to remark that its numbers are too few for the wide areas over which it is distributed; that it is not taken from the best classes of men for a police force, and that improper men are not only not carefully excluded, but are admitted in large numbers into it. The general opinion also is, that it requires both more officers and of a better class than the existing darogahs. The darogahs have enormous power, and that their power is much abused is notorious. Effectual superintendence over the darogahs there is none. The superintendence and general command belong to the magistrate, but the darogah often through his reports rather directs the magistrate than the magistrate him. These various allegations could be illustrated by cases, but they would swell this letter beyond limit."

In conclusion, your petitioners humbly pray your Honourable House to take this their petition into your gracious consideration, to institute an inquiry, parliamentary and local (the latter under guarantees for its fulness and freedom), into the state of the courts and magistracy, especially as respects their personal efficiency and qualifications, and into the state of the police, and to pass the reforms specifically mentioned in the paragraphs at the latter part of this petition, numbered consecutively 1 to 9, and generally for the reform of the police, magistracy, and country courts of the East India Company.

And your petitioners shall ever pray.

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To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble Petition of the undersigned Landed Proprietors, Indigo Planters, Merchants, and Traders in Calcutta and the Lower Provinces of Bengal.

Sheweth,

THAT the interests of your petitioners are deeply affected by the character of the courts and administration of justice in Bengal, and that the said courts and administration are greatly in need of reform.

That by the Act of Parliament passed in One thousand eight hundred and fifty-three (16 & 17 Vict. c. 75) to provide for the Government of India after the expiration of the then existing arrangement with the East India Company, provision is made for (among other things)

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things) the appointment by Her Majesty of Commissioners to consider and report on the reforms proposed by the Indian Law Commissioners (the said Indian Law Commissioners having been appointed under the 3 & 4 Will. 4, c. 85, for the purposes therein mentioned).

That Her Majesty accordingly appointed Commissioners, who have since, according to the design of their commission, reported concerning the reform of the judicial establishments, judicial procedure and laws of India, and your petitioners are informed that measures founded on the said report are about to be brought into Parliament. Your petitioners beg here to premise, that the Report referred to appears not to have been printed until the present year, One thousand eight hundred and fifty-six; no copy accessible to the public arrived in Calcutta until very recently, and only two or three copies came, as your petitioners are informed, to as many high official persons whose opinion was officially requested, and therefore your petitioners are only acquainted with the general tenor of some of the recommendations of the said Commissioners, and are now induced to address your Honourable House in consequence of the alarm with which chiefly one of those recommendations at present is regarded by your petitioners.

Your petitioners confine themselves now to that portion of the said recommendations which relates to judicial establishments. They are informed that a complete or extensive subversion of existing judicial establishments in Bengal is recommended, and is designed not only for the East India Company's or Mofussil courts, but also for Her Majesty's Supreme Court of Calcutta. Your petitioners readily admit that the East India Company's courts are universally deemed to require reform of the most extensive and fundamental kind, and that those courts have not the respect or confidence of any portion of the public; but Her Majesty's Supreme Court of Calcutta as universally has the public esteem and confidence.

Connected with this general subversion of existing courts is a plan or scheme for an entire reorganisation of judicial establishments in one uniform system of merely local courts and magistracy for the Presidency and Mofussil. Without entering at present into details, your petitioners submit that this new organisation is necessarily only an experiment, and it would be wise to confine it as an experiment to those courts or classes of courts which are universally regarded as requiring such extensive reform; and it appears to your petitioners that to extend it to the Supreme Court would be a premature sacrifice of a valuable tried and honoured institution, and a wide departure from the maxims of political prudence, for the sake of a mere theoretical idea of establishing an uniformity of organisation. If the experiment tried on the courts undoubtedly requiring the most extensive reform succeeds, all the reasons, whatever they may be, in favour of exclusively local courts and uniformity of system, will have undiminished force, and there will be one objection less to the change; but it may from a variety of causes fail, and in that case a popular and respected institution will have been sacrificed past revival to a theoretical idea and a vain system, greatly to the injury of the industry, enterprise, capital, personal security, and well-being, especially of British people and the numerous bodies of natives connected with them, and their business and transactions.

Entertaining so strongly such objections to one part of the proposed plan, your petitioners have great satisfaction in representing that it may easily be separated from the rest of the plan, and consequently that the abandonment of the proposal for the abolition of the Supreme Court needs not retard the reform or re-organisation of the East India Company's courts in the Mofussil. For instance an illustration:—The abolition of the Supreme Court is proposed under the name of an amalgamation, and the benefit to be gained is the introduction of the three Supreme Court judges to the sudder court, and their incorporation with the East India Company's judges in that chief court of appeal. It is obvious that these three professional judges are wanted for their forensic training and knowledge of English law and general knowledge of practical jurisprudence. But the Supreme Court may be preserved, and the object alluded to be obtained, only by doubling the number of the judges of that court, and establishing a rota among them to sit in the Court of Appeal, or by some other slight modification of this plan, the Supreme Court bar and different bars, English, Scotch, and Irish, of the United Kingdom, would be amply sufficient to supply the demand.

Equally unnecessary is the abolition of the Supreme Court for the practical establishment of other parts of the plan for reforming the courts of the Mofussil. For example, the procedure of those courts is indescribably faulty and bad to so great an extent that the Commissioners propose not its reform, but a new code of procedure for them; it is not necessary to touch the Supreme Court for the purpose of making this change in the Mofussil. The Supreme Court is a reformed court; its procedure is in some respects in advance of the reforms in England, and is well adapted for its jurisdiction. Why then force a wholly new procedure on this court? It will only have the effect of unsettling the court and not be an improvement; and obviously, as your petitioners submit, the wise and prudent course would be to introduce a new procedure only into those courts which need such extensive reform.

Again, for illustration, the Commissioners have proposed a new criminal code, and purpose to prepare a new civil code. There is no more difficult duty than to bring new codes into operation; and it appears to your petitioners highly inexpedient to abolish the most competent, and, indeed, only qualified court, just on the eve or with the immediate prospect of such a change. The hundreds of local courts will, on the proposed plan, have but one court, and that court merely of appeal, to look up to for authority and precedent; whereas the Supreme Court, with its centralised action and general jurisdiction, could afford the local courts daily instruction in all sorts of juridical questions and the most minute details.

Your petitioners have yet to refer to that part of the plan of the Commissioners which relates to criminal judicature over British people. They have been to the present time exempt in the case of the graver offences from the criminal jurisdiction of the East India Company's courts in the Mofussil, and have had the right of being tried in the Supreme Court, for which purpose they are brought to Calcutta. Repeated attempts have been made by the local Government to abolish this exemption, and give the criminal courts of the Mofussil an indiscriminate jurisdiction over British people. The said Commissioners have revived this proposal. On all former occasions it has been regarded with extreme alarm and apprehension, and the opposition made to it by the British inhabitants has been successful; and generally, as your petitioners believe, their grounds of opposition have eventually had the concurrence of the Governor-General for the time being. The proposal is now revived on a supposition, it is presumed, that the new courts will be more worthy of their judicial functions. It may be admitted that that assumption divests the proposal of some of the former grounds of objection. But in the opinion of your petitioners, the judicial body, as much as the judicial system, requires to be changed; and without that change all other changes will end in a greater or less degree of disappointment. The Commissioners appear not to have proposed any change of this kind. It can be made only by the Government. Your petitioners strongly submit it would be more wise, just, and prudent first to see the courts in operation, and afterwards to propose any extension of their jurisdiction. The British inhabitants would be the last persons to resist any change in the true interests of justice as ascertained by experience; but they protest against being made the victims of an experiment. Such as the courts are, your petitioners regard the said proposal with the same alarm as on all former occasions, and feel the most serious apprehension of danger to the British inhabitants of the Mofussil. The criminal courts of the East India Company have been the dread and terror of the people; are used as instruments of revenge and persecution; convictions in them are regarded as evidence quite as much of misfortune as guilt; and the public have no confidence in them. It is in the character not of a privilege that the British inhabitants so tenaciously cling to the exemption from these jurisdictions, in cases in which not mere fines are involved, but the life, or liberty for long terms, or character and social existence of the accused is concerned. The British inhabitants only desire justice and fair trials, and they claim these in the Supreme Court because there only can justice and a fair trial be had. It is a claim simply of remaining secure as heretofore from a calamity, the effects of which are seen and deplored in the condition of all classes in the Mofussil. All these things, then, considered, your petitioners regard the extension of the Mofussil jurisdiction in the graver cases to themselves as a new evil, in the same light; in short, as if the question were of some new pestilential influence, some misery of misgovernment from which they have been hitherto exempt, but which it is now proposed to bring upon them.

Your petitioners have already adverted to the very short period, a few weeks only, since a few copies, two or three only, of the Report of the Commissioners, arrived in Calcutta. The Report also is founded not on evidence taken by the Commissioners themselves,—only one or two official persons were examined,—but on the papers and reports of other Commissioners, the Indian Law Commissioners, those Commissioners also having never proceeded in a Parliamentary way, by the examination of witnesses, or an extensive collation of different kinds of evidences.

Your petitioners, therefore, submit that further inquiry, Parliamentary and local, is desirable, and that legislation should not proceed on the said report until the British inhabitants have had the opportunity of previously knowing, in detail, what is proposed, and conveying their respectful opinion to Parliament.

If however the subject be pressed,—with respect to remedies, your petitioners having regard to the interests of capital and commercial enterprise, and to the security of persons, would hope for changes in the opposite direction, so far as concerns the Supreme Court, to the recommendations of the Commissioners. By the law at present the Supreme Court may acquire jurisdiction by the agreement of the parties; and no merchant or capitalist in Calcutta ever lends or invests without such agreement, when the transaction is with persons to whom the jurisdiction would not otherwise extend. Mofussil capitalists often resort to the same expedient. It is the jurisdiction of this court which gives the immediate commercial and practical value to the mortgage bond or bill. On the faith of that jurisdiction large enterprises depend for capital, and many millions of capital would, in the opinion of the parties concerned, be jeopardised, if the jurisdiction of the Supreme Court were cut down. By these and other similar considerations your petitioners are led to believe the extension of the jurisdiction of the Supreme Court highly desirable. To give it in all cases above, say, 5,000 rupees (500 *l.*) a jurisdiction, at the option of the creditor, would tend to the increased investment of capital in the Mofussil.

Your petitioners, therefore, humbly pray your Honourable House not to sanction any plan for the conversion of the said Supreme Court into a merely local or Calcutta court, nor the transference of any part of the jurisdiction of that court exclusively to the East India Company's courts in the Mofussil, but, on the contrary, to extend that jurisdiction, when the subject shall be brought for legislation; and to postpone the plans of the said Commissioners until there has been ample time for their discussion and consideration in India.

And your petitioners shall ever pray.

Appendix, No. 1.

Sess. 2, 1857.
App. No. 37.

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The humble Petition of the undersigned British Subjects, residents in Calcutta and the Mofussil Districts of the Presidency of Fort William in Bengal, and not in the service of the East India Company,

Sheweth,

That your petitioners regard with deep anxiety and alarm the changes which it is proposed to make in the criminal courts of this country, in accordance with the recommendation of the Indian Law Commissioners.

That the Commissioners propose to abolish the Supreme Court, to which alone British subjects in this country have been criminally amenable, except in cases of petty assault, for upwards of 80 years, and where trial has been always, as in England, by an independent and trained judge appointed by the Crown, and a jury of 12 persons professing the same faith as themselves, and speaking the same language, and to substitute for the Supreme Court four new classes of criminal courts; firstly, the courts of session in which a Company's judge, holding office at the pleasure of the Government of India, shall sit to try the more heinous offences with a jury of not less than three, and not more than nine, taken from a class registered according to rules to be made by the Governor-general in Council; secondly, the magistrate's courts, where the magistrate is to sit alone and punish lesser offences summarily with imprisonment not exceeding two years and a fine of 1,000 rupees; thirdly, the subordinate criminal courts of the first class, the judges of which are to be first assistants to the magistrates and principal sudder ameens, and are to have power to sentence to one year's imprisonment and a fine of 200 rupees; and fourthly, subordinate criminal courts of the second class, the judges of which are to be second assistants to the magistrates and moonsiffs, and are to have power to imprison for three months and fine 50 rupees.

In other words, the Commissioners recommend that, as regards the numerous class of offences falling within the jurisdiction of the three last mentioned courts, your petitioners should henceforward be deprived of the right of trial by jury, and that functions hitherto discharged by the judges of the Supreme Court and a jury of 12, should be henceforward entrusted to single officials of the East India Company, European and native, and against such recommendation in all and every part, your petitioners most energetically protest as unwarranted, oppressive, and dangerous in the highest degree.

Your petitioners say, that to deprive them of trial by jury, is to deprive them of that which at all times and in all places under British rule, has been held to be the inalienable right and surest protection of every Englishman against injustice and error; and that to do so in this country, where the fabrication of evidence is a trade, and the common practice is to make all cases of disputed possession and other civil questions the subject of false charges of assault and robbery supported by perjury, forgery, and subornation, as the ordinary weapons of litigation, and where consequently the assistance of a jury is more necessary to the court, and its protection to the accused, than in any other part of the British dominions, is, your petitioners submit, an invasion of their constitutional rights, called for by no necessity and attended with the most serious consequences.

That whatever additional aggravation the loss of trial by jury is capable of is afforded by the inferiority and unfitness of the officials, whom it is proposed to put in the place of the judges of the Supreme Court, and to invest with such extraordinary powers over your petitioners.

Your petitioners say that the proposed judges of the three lower criminal courts, European and native, are all alike unfit for the office, as being servants of the East India Company, owing their appointments to, and holding them at the pleasure of the Government of India, and therefore wanting that independence and freedom from influence which it is impossible to contend, is not at least as necessary to a judge in this country as in England, and in that they are also all deficient in the necessary experience and legal knowledge and training; and further, as regards the native officers whom it is proposed to invest with such powers, your petitioners boldly and confidently assert that no class of natives is fit to be entrusted with criminal powers over Europeans, being wholly disqualified for the due exercise of such powers by antagonistic feeling, inveterate prejudices of caste and religion, and utter want of independence of mind and of freedom from improper influences of all kinds.

That the position of your petitioners in this country is, from the smallness of their numbers, in comparison to the native population, the antagonism of race, the insecurity of property, and the weak administration of law in the Mofussil, one of great difficulty and risk, and that to add to that difficulty and risk by subjecting them to the jurisdiction of the magistrates and native officials in the manner proposed, is to offer an invitation to the preferring of false charges against them, and to expose them in their property to utter ruin from error of judgment, incompetence, prejudice, corruption and perjury, and in their persons to sentences of imprisonment, which to Europeans in this country are equivalent to sentences of lingering death.

That the summary powers proposed to be given to single magistrates are unknown to the law of England, though there all courts are surrounded by the checks of publicity, and persons accused have also the benefit of the assistance of trustworthy advocates; and that to give such powers in this country, where the court is without such check, and the accused without adequate assistance in his defence, where the only apparent corrective of injustice is the delusive one of an appeal, which can hardly ever be successful, if it be against the finding on facts, or if successful, will not in most cases be decided till the accused has lain some months in prison, is most intolerable and unwarrantable, and must inevitably lead to the great present depreciation of mofussil property, and to the discouragement of all European commercial enterprise in this country.

That the justice of your petitioners' objections to these courts, and their unfitness to deal with charges against Europeans, is fully admitted by the Commissioners when they propose, as they do, to exempt from the jurisdiction of these courts the members of the civil, military, and naval services of the East India Company, as regards all offences committed by them, whether as public servants or otherwise, and their unfitness to deal with any cases of any importance or difficulty whatever, is equally admitted by the proposed extension of that exemption to nazirs, darogahs, and others, native or otherwise, whose duty it is to receive or keep any of the property of Government, or to investigate or report on any matter affecting the pecuniary interests of Government, or to keep any document relating to those interests; your petitioners say that they are unable to understand on what grounds it can be proposed to assign to the body who represent the producing power and commercial wealth of this Presidency a status and importance in the eye of the law below that of the last arrived writer, or cadet, or a darogah of police charged with an abuse of authority, or a public office writer with making away with stationery, or any other native officer charged with the most trivial peculation. Your petitioners submit that they are not to be treated as outcasts and outlaws, on no other ground than their having come to this country, and engaged in lawful pursuits without having a voice in the legislature, or being numerous enough themselves to protect their own interests; that their importance politically is equal to that of the last-mentioned persons, and that therefore they are entitled to the same exemption and to equal justice with them, and upon all these grounds they protest against being in any degree subjected to the proposed jurisdiction of the three lower criminal courts.

As to the jurisdiction proposed to be given to the courts of session, to the displacement of the Supreme Court, your petitioners submit that it is incontestably clear that such change as proposed will give your petitioners a worse judge and a worse jury, and much increase the difficulty and expense of getting professional assistance for defence. The judge appointed by the Government from among their own servants, not on account of any experience he has had, or proof he has given of fitness for judicial functions, but because his time has arrived for promotion from some other branch of the civil service, his employment in which has by no means qualified him for the judicial bench, will almost always at his first appointment, have his new duties to learn. Being removable at the pleasure of Government, with everything to fear and hope from them, he cannot be and is not, as your petitioners' experience convinces them, independent of the influence of Government on him as a judge, and in any case must be exposed to imputation. The jury consisting of any number from three to nine, and the opinion of two-thirds prevailing, it is patent that the facility of corrupt practice and tampering is greatly increased, and in cases of prosecutions instituted by wealthy natives against British subjects, your petitioners' past experience leaves them no doubt that such practice will be largely resorted to, and with every probable success, if the jury shall consist wholly or chiefly of native jurors.

Your petitioners submit that no sufficient ground has or can be shown for a change so hazardous. Uniformity cannot be the object, as the proposed system starts by establishing distinctions all to the prejudices of your petitioners, and further uniformity in the administration of law can only be desirable, when it introduces tribunals all equally good, not when it places all alike in equal peril of suffering injustice. The argument from the alleged inconvenience found in bringing British subjects from considerable distances to Calcutta to be tried, if proved by facts which your petitioners question, may be a ground for bringing good courts within reasonable reach of the several mofussil districts, but can never be a reason for depriving Englishmen of their rights, or subjecting any body of men to the imminent peril of bad or partial law and corrupt juries.

Your petitioners submit that such an inconvenience, if it exist, can be fully and easily obviated by the establishment of Queen's courts presided over by judges appointed by the Crown, and independent of the Government of India, through all the principal districts of this Presidency, in which alone all British subjects and such other persons as the Legislature shall think proper shall be triable by a jury of their own countrymen on all charges affecting life or liberty. Such change, your petitioners submit, would not only remove the alleged inconvenience without introducing any other, except a curtailment of the patronage of the Government of Bengal, but would also establish through all this Presidency a higher order of judges, and a better standard and administration of law than it has hitherto enjoyed, on which ground your petitioners submit that if any change be considered necessary, it should be that of the establishment, all through the Presidency, of Queen's courts, with independent and competent judges, and not the abolition of the only court which at present possesses the confidence of this Presidency. Your petitioners submit that no considerations of economy or of loss of patronage should be allowed to prevent the adoption of such reforms if found necessary. But if the establishment of Queen's judges generally in India be found too burdensome to the East India Company, or too great an interference with the vested rights of the civil service, or otherwise impossible, and the subjecting of your petitioners to the jurisdiction of the court of session be considered indispensable, in such case your petitioners submit that it is the bounden duty of the Government of India to provide for those courts the best judges procurable in the civil service, and with that view

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to form and keep distinct a regular judicial service, and not, as now, to appoint their judges indiscriminately from the revenue or other judicial branches of the civil service according to a mere routine of promotion, and without regard to the fitness or unfitness of the individual, and that the judges so appointed should hold their office during good behaviour, and be in all respects independent of the Government of India; and that your petitioners are further entitled to demand as Englishmen, that they be subject to the jurisdiction in criminal matters of no lower court than the Courts of Sessions so reformed, and that they shall have there the protection of trial by a jury of their own countrymen.

Your petitioners would further remind your Honourable House that the Supreme Court which it is now proposed to abolish, was notoriously and avowedly instituted by the English Legislature to act, and has always, and lately on several occasions, acted as a check on the abuse of power by the Government of India and its officers; that the wisdom of the imposition of such a check has been yearly proved, that there is nothing in the present day which leads your petitioners to believe that the Government of India or its officers stand less in need of that check or can be more safely trusted with uncontrolled authority than before, but much which leads to a contrary conclusion; and therefore your petitioners protest against the adoption of the Commissioners' report on the further ground, that while they recommend the abolition of the Supreme Court, they provide no other check, but, on the contrary, place the whole judicial power of the Presidency at the mercy of the Government, and leave the numerous questions which from time to time shall arise between the Government of India and individuals, to be tried in courts, of which the judges are either absolutely removeable, as in the Sessions and Lower Courts, or suspendible as in the High Court at the pleasure of Government.

Your petitioners therefore respectfully pray, that your Honourable House will be pleased to take this their petition into consideration, and to protect them from the attacks with which their liberties and properties are threatened by the said Report, and to secure them in the possession of those rights which as Englishmen they have hitherto enjoyed, at least as far as the maintenance of them is not shown to be prejudicial to the rights of others, and that your Honourable House will not allow the Supreme Court to be abolished, without at least providing some other sufficient check in its place on the Government of India.

And your Petitioners shall ever pray,
&c., &c.

Appendix, No. 2.

Appendix, No. 2.

PAPERS delivered in by *William Theobald*, Esq., 27 April 1858.

REVISED AFFRAY BILL and other Bills referred to in the Evidence of *W. Theobald*, Esq.

No. 1.—REPORT of the SECRETARY of the INDIGO PLANTERS' ASSOCIATION, on the Act IV. Bill and Revised Affray and Mochulka Bill, read at a Meeting of the Society on the 5th April 1855.

1.—*Act 4 Bill.*

THE original Bill for the prevention of Affrays has been divided into two Bills, one of which is confined to amending Act IV. of 1840, and is entitled, "A Bill to repeal Act IV. of 1840, and to amend the Law for giving Relief in Cases of Forcible Dispossession within the Presidency of Fort William in Bengal." The other is a substitute for the parts most objected to in the late Affray Bill; and besides, it proposes to repeal Act V. of 1848, the substance of which is to be re-enacted, with amendments. This Bill is entitled, "A Bill for the better Prevention of Offences against the Public Tranquillity, and to amend the Law regarding the taking of Bonds for keeping the Peace."

I may add, that these two Bills together embrace the objects of the late Affray Bill, which objects, however, as respects affrays, are proposed to be accomplished in a different manner.

These Bills have been brought up with reports of select committees, copies of which have been furnished to this society.

The first main feature to be observed is the division of the late Affray Bill into two Bills. The select committee of the Legislative Council have reported on this as follows:

"We have considered this Bill" (the late Affray Bill) "in connexion with the Bill for the taking of penal recognizances for the prevention of breaches of peace, and we think it will be better to include in the latter all the penal provisions that appear to us to be necessary for the prevention of affrays, confining this Bill to the provisions necessary for empowering the magistrate to maintain persons in the possession of immoveable property. We have prepared an amended Bill accordingly, which is annexed to this report."

From this plan it has resulted that the amendments on Act IV. of 1840 are entirely separate. The amended Bill differs in a very important manner from Act IV. The difference between the Bill and the Act is indicated in the preamble of the Bill, which is as follows:—

"Whereas it is expedient to take from magistrates within the Presidency of Fort William in Bengal the power of instituting inquiries into cases of disputed possession when no act of forcible dispossession has occurred, and to amend the mode of procedure in cases of forcible dispossession." And it is also alluded to in the report of the select committee as follows:—

"The Lieutenant-governor of Bengal strongly objects to giving magistrates authority to interfere in cases of threatened dispossession. He is of opinion that the reasonable and natural course for a magistrate to adopt in cases of disputed claims to property in and concerning lands, is to cause the apprehension and punishment of persons committing an affray, and to uphold and replace in possession the person forcibly attacked or dispossessed; and he considers it especially unnecessary to empower the magistrates to enter upon investigations into a dispute about possession, or into the fact of previous possession, before the occurrence of an affray."

Accordingly, sections 2 and 3 of Act IV., which relate to disputes or claims as contradistinguished from dispossessions, are altogether omitted. The parts of Act IV. which are renewed in the Bill are only those which relate to forcible dispossessions actually perpetrated. The select committee have expressed their own opinion in favour of this change as follows:—

"The principle that there should be no magisterial interference where no dispossession has been effected, is, in the opinion of the committee, a sound one. The power of interference was first given to the magistrates by Section III, Regulation VI. of 1813, with the view of enabling them to remove at once the *origo mali*, by determining who is in actual possession, and thus to prevent a breach of the peace; but the committee think that this system of procedure tends to encourage persons who may have no right to the land, to use, or to threaten a recourse to force, by which means they gain the chance of the magistrate declaring the fact of possession (oftentimes a most difficult point to ascertain) to be in them; and that the object which the section has in view will be better secured by strengthening the district police, and by prescribing stringent penalties for assembling or conniving at the assembly of club men and other persons, whereby breaches of the peace are threatened. We therefore propose to strike out of the Bill (*i. e.* Affray Bill) "Sections II. III. and IV."

The general principle being thus agreed, it is carried out in Section II. of this Bill, as respects land, watercourses, trees, crop, and the produce of land, all being of a corporeal nature, and it is carried out in Section VI. as respects rights of use connected with the land, being of an incorporeal nature; and I may add, it is not extended as was proposed by the original Bill to merely personal things.

The remaining parts of the Bill are secondary or subsidiary, and relate (1) to procedure; (2) to the offence of obstructing orders made under this Act; (3) to the jurisdiction of the different classes of magistrates; (4) to appeals.

The procedure enjoined appears to be a great improvement on Act IV. procedure, with, however, one drawback, presently to be noticed. The magistrate can only act on a complaint on oath or solemn affirmation, or supported by witnesses; and then, if the magistrate sees a *primâ facie* case, he cannot make an order *exparte*, but must issue a summons, returnable within 15 days; he is then to make proclamation of the complaint, which I presume is intended to increase the chance of the complaint and summons becoming known to the opposite party, who may defend the case in the ordinary manner; and then comes a provision that the magistrate may call for a report from the tehsildar or darogah of police, upon any point connected with the dispute. The committee remark in their report, that this intervention of the darogah is opposed both by this association and the British Indian Society. The committee states in support of it as follows:—"We have, as suggested by the Lieutenant-governor of Agra, empowered the magistrate to call for a report, after local inquiry, from the nearest tehsildar or police officer, upon any point connected with the dispute. We disagree with the Indigo Planters' Association, who object to the admission of such reports. The report of a native officer on the spot, made upon his official responsibility, is often of great value, as indicating where the truth of the case is to be sought." This society objects to these reports being used in competition with regular evidence, on the ground especially of the general untrustworthiness and venality of this class of officers. In the end, if the magistrate be of opinion that the complaint is substantiated, he is to restore the person who has been ousted. The time is limited to within 15 days after the fact of dispossession for making the complaint to the magistrate.

The next provision in the Bill merely subsidiary to the main object, provides a punishment for whoever by force, or show of force, impedes the execution of an order of a magistrate. The punishment proposed is a fine of *Co.'s Rs.* 500. Under Act IV., as well as in the Affray Bill, it was fine and imprisonment, both or either, and this Bill was to have been committed last Saturday, but was postponed at the instance of Mr. Peacock, who thought the punishment proposed too mild;—a question which the committee would be competent to deal with.

With respect to the jurisdiction of the magistracy, it is limited as follows:

All officers exercising the full powers of a magistrate are to have jurisdiction; and magistrates may refer cases to any assistant who is vested with special powers, and to any deputy magistrate who is vested with special powers; but the magistrate may also recall any case which he has referred to an assistant or deputy.

The provisions respecting appeals are as follows:—

"An appeal is to lie from the assistant or deputy magistrate to the magistrate within 15 days from the date of the order; from a magistrate's original order an appeal is to lie to the sessions judge; and a special appeal from both original and appellate orders of magistrates, and from the appellate orders of sessions judges to the Sudder, on the same grounds as in other cases of special appeal; the time of appealing being limited in each case to 15 days from the date of the decision appealed against. Lastly, the Bill is to apply to all persons, without distinction of birth or descent.

Such is the Act IV. Bill of which the society has to form an opinion. It stands for committal on Saturday week.

2.—*The New Affray Bill and Mochulka Bill.*

This Bill consists of 32 sections, which are of two kinds, the distinction between them being indicated in the title of the Bill: one set of sections, the first 15, they are for the better prevention of offences against the public tranquillity: the last 17 are to amend the law regarding the taking of mochulkas or penal recognizances; these sections are Act V. of 1848, with amendments. The first part of this Bill is entirely new. In moving the first reading of it, Mr. Elliot thus characterised the first nine sections:—

"Their intention is, he said, to deter men from assembling, and from instigating others to assemble, in bodies under circumstances which might reasonably excite apprehensions of a serious disturbance of the public peace, in pursuance of the objects of the assembly; and most of them would be necessary to render any code of criminal law and procedure complete. He meant, he said, those comprised in the first nine sections." Having heard this statement from the lips of the mover of the Bill, I suspended my judgment until I could look for the code containing corresponding sections. The first section is a type of all the rest.

"When five or more persons assemble together under circumstances which may reasonably excite apprehension that it is the object of such assembly to overawe any public servant in the exercise of his lawful powers, or to resist the execution of any law, or of any legal process, or to commit any assault or mischief, or trespass, or to put any person in fear of hurt or assault, or unlawfully to take forcible possession of any property, the assembly shall be deemed a riotous assembly, and every member of it shall be deemed guilty of the offence."

The result of my inquiries is, that I can find no code containing such provision. There was one celebrated code, the work of a man who combined the triple qualification for making a code, of a man of large experience in the world, a lawyer and philosopher, and not only of great learning, but of a generous regard for the public interests. I refer to the code of the penal law prepared by Mr. Livingstone for the state of Louisiana; and I mention it because it was extensively used by Mr. Macaulay in preparing the Indian penal code. In the Livingstone Code, there is a title "of Offences against the Public Tranquillity," and a chapter "on Unlawful Assemblies and Riots," but there is no such section as the section I have read. The analogous, not corresponding, section of the Louisiana Code is as follows:—

"If any three or more persons shall assemble, with intent to aid each other, by violence, either to commit an offence, or illegally to deprive any person of the enjoyment of a right, such assembly shall be called an unlawful assembly." This goes as far as any code ought on the subject of suspected and unarmed assemblies. The being armed is an aggravation, which is afterwards provided for; and proceeding from a purpose to overt acts, is also afterwards provided for: but in this code it is not made an offence punishable with fine or otherwise to be merely suspected.

From the Livingstone Louisiana Code I turned to the Macaulay Code, and there I find not this section, but what may be regarded as the rudiments or germ of it. But the Macaulay Code is not a passed code, and the Bethune Code, which is a revise of it, but was never published, also is not a passed code; and I know of no extant code containing such as the first and eight following sections, as respects constructively riotous assemblies and constructive rioting.

Failing to find an authority or precedent for such legislation, I will proceed to a short examination of its merits. The offence created by this section appears to me to belong to the class of offences by construction. Laws for making constructive offences, constructive treasons, constructive felonies, constructive misdemeanors, are known to the history of bad times, but are almost unknown to extant practical law; they are dangerous to the innocent, and are very generally regarded as traps and snares for them. Read the section. The abuse of terms is palpable. It is a perversion of the English language to designate an assembly a "riotous assembly," which has done no overt act of riot, and no violence whatever. An assembly may be an unlawful assembly, by reason of having an unlawful purpose; and in the code of Louisiana, assemblies for unlawful purpose are so designated. An unlawful assembly may be a light misdemeanor, or an offence of great gravity; but the term "riotous" confounds facts, and all degrees of culpability, and such an application of it is practically venomous. Obviously it has a tendency to establish an unworthy prejudice in the minds of the magistrates who will have to apply the law, and by means of that prejudice a further tendency to undue severity; and last, but not least, to arouse the aversion of the people for the magistracy and the law.

Next, the offence and conviction are not made to depend on the criminality of intention, purpose, or object on the part of the assembly, but on the apprehensions of the persons who bring forward the charge, or are the informers. Conviction may ensue under this section, where in fact there has been no unlawful purpose or criminal object. The informer who makes the charge has only to show circumstances which might reasonably alarm him, or (in the words of the Act) excite his apprehensions. Lawful and unlawful purposes are thus confounded. The man who stands on the defensive as to his right, exhibits in his conduct much the same circumstances as the man who is the wanton aggressor; and yet those circumstances which may be essential to the preservation of his person or property may bring him under the penalty of this section. Suppose a charge following the words of the Bill:—That five persons, the servants of Mr. Mills, on such a day, at such a place, excited the apprehensions of Khadir Bux, police peon, then on duty, that their object was to take or maintain forcible possession of such a field; and Khadir Bux is supported in this view by Mudho, police peon, and Bulwunt Jemadar, as witnesses. They invent the circumstances, and swear to their excited apprehensions. The magistrate might convict on this case, and refuse to hear a defence on the ground of the absence of all unlawful purpose. Indeed this practical view of the operation of the clause agrees with the opening speech of the gentleman who moved the first reading of the Bill. It is perfectly clear that persons having a lawful purpose, and being on lawful business, may still be punished under this section for being five together, if a peon or jemadar chooses to be excited with apprehensions of any assault, or mischief, or trespass. This goes beyond the Macaulay Code, the words of which apply only to assemblies whose object is any assault, mischief, or criminal trespass.

Again, it is well known what precaution is taken in most regular systems of penal law to provide against abuse and misapplication, by well considered forms and rules of procedure. Thus the Livingstone Code provides that in every charge against a person for being at an "unlawful assembly," the charge must state the purpose which constituted its illegality and brought it within the criminal law. There is no such requirement in this Bill; not even the circumstances which, in the absence of an illegal purpose, excited the apprehensions of the informer, are required to be stated, but the utmost generality is therefore, according to practice, permitted.

I have referred to the Macaulay Code as containing the germ of the present Bill. It is in section 127, and is as follows:—

"An assembly of 12 or more persons is designated as a riotous assembly, if it is the object of that assembly to overawe the Legislature or Executive Government of India, or the Government of any Presidency, or any public servant, in the exercise of the lawful powers of such public servant, or of such body; or to resist the execution of any law; or to commit any assault, mischief, or criminal trespass; or wrongfully to restrain any person; or to put any person in fear of hurt, or of assault; or wantonly to insult or annoy any person; or if that assembly is attended with circumstances which may reasonably excite apprehensions that its object is one of those aforesaid."

I know not whether by some verbal hair-splitting refinements, the last two lines above may be distinguished from the first section of the present Bill, but they are its germ. I do not believe that any enlightened Legislature would pass them, nor that Mr. Macaulay would have added them to the rest of the section, which is unexceptionable, if he had been a practical lawyer, and had understood their operation, and seen what sort of offences (offences by construction) he was creating. I will proceed to the second section.

The first section having given to assemblies suspected by the police, whether riotous or peaceable (for that is the effect of it), the designation of riotous assemblies, the second provides the punishment, a fine not to exceed *Rs.* 200 on every person whose offence is designated "rioting," which is the same abuse of terms as in the first section. Besides this, I may observe there is a great want of feeling for human nature in thus branding with an odious name a man whose offence may be a very light one, and not at all rioting.

The third section makes it an aggravation for these assemblies to be armed, with no exception in favour of those parts of the country where by custom and habit all persons carry arms.

The next seven sections, which I must pass over for want of time to comment on them in detail, are open all to the above objections.

I proceed to section 10. This section makes zemindars, talookdars, or other owners or occupiers of land, punishable with a fine of *Rs.* 1,000, in case of their or their agents or servants not proving that he or they gave the earliest possible notice to the police of the fact of such assembly taking place, and that he or they used all the means in his or their power to prevent it.

In support of this section, the select committee who prepared the Bill observe, "We have thought it expedient to provide specially for the imposition of a penalty upon the owner or occupier of land or premises upon which a riotous assembly takes place, if he fail to give notice to the police of such assembly, and to use all the means in his power to prevent it." But what if he does not know of the assembly, how is he to give notice of it? Besides, a "riotous assembly," be it recollected, is not necessarily an assembly engaged in riot or actual violence, nor necessarily an assembly having even an unlawful purpose, but it may be merely a suspected assembly, an assembly which has excited the apprehensions of Buxoo, Mudhoo, Bulwant, police peons, and such persons we know will indulge in any amount of apprehensions if they are paid for them, and will justify those apprehensions by any necessary amount of perjury. Obviously, the main tendency of this law is only to create new occasion for, and new forms of bribery; and thus it would aggravate the domination

nation of a venal and corrupt police, and tend further to embitter the difficulties of capital in the Mofussil and of the propertied classes.

Suppose another case; one not merely of a constructively riotous assembly, but of an actually riotous assembly. Two zemindars, say, are at feud with one another, and some of their servants or retainers in crossing the country meet, either designedly or not, on the land of a third zemindar, and a fight ensues. This section establishes a presumption that this third zemindar is as guilty as the two others, and renders him *primâ facie* liable to a fine of *Rs.* 1,000; he may be in Calcutta, they in Gya; he may even have no establishment for many miles within the site of the disturbance, and yet he must prove that he or his servants gave notice to the police or used means to prevent the conflict on his land, or the liability will attach upon him.

The 11th section applies to the case of a breach of the peace by a riotous assembly on behalf of, or in the interest of, an owner or occupier, and for this case a penalty is provided, which can be warded off, only under conditions, which can rarely be complied with; hence here we have accumulated penalties, which will be severely felt by the propertied classes.

In the 12th section power is given to the chief police officer of the nearest police station to command these so-called "riotous assemblies," that is, these riotous, constructively riotous, but in fact not riotous assemblies, to disperse; to arrest them whether they are in the act of committing violence or not; and to command the aid of not only all persons present, but the zemindar or owner of the land. This power of arresting persons, because they are five together, and because a police peon may regard them as riotously disposed, or riotous by construction, when they have done no act of violence, is of a highly dangerous kind; it may be used greatly to the injury and annoyance of the population, and in the hands of the mere chief police officer of the nearest police station it will be sure often to be a grievous oppression.

To crown the whole, magistrates are empowered to tender pardon to rioters, with the view to obtain conviction.

As this Bill is intended for all the Presidencies, three months must be given after a second reading, to advertise it, which will be ample time for the further consideration of it. My report is confined to its chief traits, and is confined to the first part of it, which is new. On the subject of the second part, which is a repeal and re-enactment of Act V. of 1848, with some alterations, the Mofussil members of this society have a good deal of experience, and I reserve my report for a record of their opinions.

W. Theobald, Secretary.

The above Report having been read and the draft Bills discussed, the meeting came to the following Resolutions:—

"*Resolved*, That this meeting cordially approves of the separation of the Act IV. part of the late Affray Bill from the rest of that Bill. (2.) That this meeting also cordially approves of the principle of the new Act IV. Bill just read and reported on, which confines the jurisdiction of magistrates to cases of forcible dispossession actually perpetrated. (3.) That this meeting approves of the procedure proposed in the Bill, excepting the admission of reports of police darogahs. (4.) That this meeting is of opinion that 15 days—the proposed limit for making complaints of forcible dispossession—is too short for persons living at a distance, and that a month should be allowed in all cases as under Act IV. (5.) That this meeting is also of opinion that 15 days—the proposed limit for appeals—is too short, and that one month should be allowed and be substituted in the Bill for 15 days wherever that period is mentioned. (6.) That this meeting disapproves of the delegation of the powers of the magistrate to his assistant in any case, on the ground of the early age at which special powers are given in the present day to assistants, and this meeting is of opinion that jurisdiction under this Bill should be exercised only by magistrates and deputy magistrates vested with the full powers of a magistrate. (7.) That the appeal from the deputy magistrate should be to the sessions judge. (8.) That under protest against jurisdiction being conferred on assistant magistrates, yet if conferred, the appeal from them should be to the sessions judge.

Resolved, That a short petition to the above effect be prepared and presented to the Legislative Council at its next sitting, with a prayer that the Bill may be passed as early as possible.

With reference to the Bill for the better prevention of offences against the public tranquillity,

Resolved, That this meeting regards the tenor of the said Bill with great alarm as dangerous to all classes of persons, and particularly the propertied classes; and that the further consideration of it be postponed till it shall have been circulated among the members.

Resolved, That the Report prepared by the secretary on both Bills be printed, and a copy sent to every member.

To the Honourable the Legislative Council.

The humble Petition of the undersigned Members of the Indigo Planters' Association, on behalf of themselves and the Association,

Sheweth,

THAT at a meeting of the central committee and members generally of the said association, held on the 6th of this present month of April, the Bill entitled, "A Bill to repeal Act IV. of 1840, and to amend the Law for giving Relief in cases of Forcible Dispossession within the Presidency of Fort William in Bengal," was read, and taken into consideration, the matter thereof being, as your Honourable Council is aware, of deep concern to the members of this association, and having already been the subject of a previous petition to your Honourable Council; and the said meeting recorded their opinion on the said Bill, in the following Resolutions:

[*For the Resolutions, see the two first Resolutions above.*]

Your petitioners therefore humbly pray your Honourable Council to take the said opinion in the above resolutions contained into your most serious consideration, and to give effect to the same.

And your petitioners shall ever pray, &c.

No. 2.—REPORT of a Meeting of Europeans to complain of Disorders in the Dacca District, through the Inefficiency of the Deputy Magistrate.

INDIGO PLANTERS' ASSOCIATION.

5, Bankshall-street, July 25.

AT a meeting of the Central Committee held this day,

Read a letter concerning the state of Manickgunge, a sub-division of the Dacca district, and the consequent danger to life and property. The writer says,—

"All the head sirdars that the former deputy magistrate put in gaol are now out, and revenging on those unfortunate men that gave evidence against them. I send you a list of all the principal lateeals under the deputy magistrate of Manickgunge, Hooshar Sirdar: he keeps a large body of men; he came out of gaol three months ago, and every day he has had a fight with Bishoo Sircar. On the 10th May Hooshar was taken prisoner, and the Elinga Takoors released him by paying a large sum to Bishoo. The Bettoor Takoors came out of gaol some time ago, and looted a large village of Mahajuns, belonging to the millionary of Dacca. Every way you may hear of fighting, looting, &c. &c. The head sirdars, with a lot of their men, are to be seen at every haut. Hundreds of petitions against these men go to the deputy magistrate, but nothing will rouse his indolence, and the poor ryots are suffering. The zemindars will do nothing but tell them to wait; it is of no use to go to the deputy magistrate. The following is a list of head sirdars, and those keeping lateeals: Hooshar Sircar, just out of gaol; Bishoo Sircar, ditto; Tossootoklala, ditto; Donook Sirdar, and Mumeen-deen, Kakoo Sirdar, the Molong Sirdars, Bettoor Takoors, Elingu Takoors. Any of the above sirdars will bring into the field, within four or five days' notice, 1,000 or 1,500 men." After speaking of his own losses, through the bad manner in which justice is administered, he proceeds as follows:—

"The policemen often come and tell me, 'Sir, what can we do; we do our best, and report the same, but as the charges are against the Takoors, and people that can pay, we get nothing but budnamee (abuse); besides, we have all been beaten by the rascals, and had no redress; so it is better to get a few rupees, and say nothing, and let them lootkar (plunder) all the country, as they have already commenced; perhaps Gunny Meah Sahib will put them (the Thakoors) to rights, and if he does not, why then the Thakoors must govern the country; they will be the magistrates, judges,' &c. Gunny Meah Sahib is a wealthy native merchant of Decca. The writer states his life is not safe, his property is sacrificed, and he concludes by asking for advice, and what steps he should take. The secretary said the advice he gave was, Hold your own as well as you can; the tide of wrong and injustice is evidently set in, and fast rising, and the Government must soon help you to save themselves, and meanwhile the Association will do all it can to hasten a change. The secretary said he had another letter from the same part of the country, which, after giving a character of the local authorities, concludes with observing, "If the whole truth came out, or even half of it, you would be astonished and surprised that the whole machine does not come to a complete standstill.'"

A member remarked that Oude was annexed for no worse state of things.

Appendix, No. 2.

Read a letter from Messrs. Mackay, Barry and Co., Serajgunge, covering report of proceedings of a meeting of the residents of that great European mart, and a petition, both for presentation to the Lieut.-Governor of Bengal, and requesting the committee to undertake the presentation.

Mr. Barry was present and said, Serajgunge is a sub-division of Dacca, 80 miles long from north to south, and 65 broad from east to west; he did not know its total population, but it has 2,000 villages and only three thanas; there are usually between 3,000 and 4,000 boats of large dimensions at Serajgunge for loading and unloading, and the population in the town and afloat is between 90,000 and 100,000. The trade of the place is 150 lakhs (half million sterling) per annum, and there is only a deputy magistrate for the town and sub-division. He is totally unfit for his office. The European residents complained of him 12 months ago, and he got up a counter representation with native signatures. Those who signed, when asked why they had done so, answered, "He told us; what could we do?" and many denied that they had signed. The Lieut.-Governor replied to their former petition in a conciliatory tone, but did nothing, and the man had been emboldened by impunity. The Lieut.-Governor spoke of the difficulty of finding fit persons for these appointments, but he could enumerate a great many assistants to magistrates, some of them with special powers, and many of them were at places of far inferior importance to Serajgunge.

The secretary suggested that there must be half a score or more offices in Calcutta held by civilians which could be just as well filled by the professional and mercantile classes of this city, and these would be a relief if sent to the mofussil.

A member said he remembered when there was first a talk of employing Europeans as deputy magistrates, and he knew several young men who went to great trouble and expense to qualify themselves by study of the languages, but the appointments were either not worth their having, or no prospects were held out to them. Plenty of persons would qualify if they were paid properly and treated properly, but as things were now, a person who had any self-respect would hardly take an appointment.

The secretary said he knew formerly two very able men who were deputy magistrates and had quitted the service in disgust from want of prospect and pay and being subordinated often to civilians whose conduct towards them was disagreeable.

Mr. Barry said the pay of deputy magistrates was originally 400 rupees per month, but the last 20 that had been appointed had only 200, and the consequence was, the Government could get only a very inferior description of persons; of this batch there were very few who could read or write properly; and none, he believed, could pass the prescribed examination.

The petition and proceedings having been read, it was resolved, That this committee will forward the same to the Lieut.-Governor, with the expression of a strong opinion that the prayer of the petition ought to be complied with, and that such conduct as was imputed to the deputy magistrate ought not to be passed over without investigation.

W. Theobald, Secretary.

No. 3.—REPORT of MEETING of INDIGO PLANTERS' ASSOCIATION, respecting an Outrage on an European in the Jessore District.

13 May 1857.

PROCEEDINGS of a Special Meeting of the Central Committee of the Indigo Planters' Association, held this day at the rooms of the association.

The secretary opened the meeting by stating, that it had been called for the purpose of taking into consideration the particulars of an outrage lately committed in the Jessore district, in which a factory had been burned, and the European Assistant in charge, Mr. Oram, had been unmercifully beaten and wounded in five places by spears.

Mr. J. P. McKilligin was voted into the chair.

Sir Albert Larpent then read the following extract of a letter to his firm from Jingergatchee dated the 9th instant:

"At the very time I was despatching my letter, of the 4th instant to your address, another attack was made upon the Mutrapore factory belonging to Gudghat concern by the retainers of the Nuldangah rajah, and ryots of some villages in league with them; when the factory was burned down, and Mr. Oram, the Assistant, with five spear wounds on his body, and otherwise most unmercifully beaten, carried off. The magistrate, however, having had timely notice, and acting upon the spur of the moment, managed to follow up the parties carrying him off, was able to release him. Mr. Oram is now under the doctor of the station, and though in a precarious state may, I hope, get over the cruel treatment to which he was subjected.

"I was upon the spot next day by daylight, and have since been taken up in following up proofs against the instigator of the parties engaged in this most unusual and uncalled for attack. The rajah and most of his followers are now in hiding, and hardly a ryot to be seen in any of the villages implicated in the late attack."

Mr. Goodenough also read an extract from a private letter from a friend in the neighbourhood, to the following effect:

"I am delighted to hear that Larpent intends moving with a will in that infamous case of the attack on Gudghat. Living as we do 15 miles from an European neighbour, we can be murdered and all trace of us gone long before the magistrate could even hear of it, and it was only a chance that saved poor Oram from being cut to atoms and given to the fishes, and it is truly the duty of men for whom we work in the mofussil, to leave no stone unturned to preserve us from these murderous attacks, and if this case of Oram's is allowed to sleep any of us may be made away with without a soul knowing anything about it.'

The matter was then fully discussed, and the following resolution proposed by Mr. Brown, and seconded by Mr. Goodenough, was carried unanimously:

"That this committee consider the outrage to be so flagrant as to call for an immediate representation to the Government, in order that a Special Commissioner may be appointed to inquire into and deal with the case, and that a letter be addressed to the Right Honourable the Governor-general of India, praying that such Commission be granted."

The secretary then drew up a letter to the Governor-general, which was approved of, and he was requested to write this letter forthwith.

The secretary then produced and read to the meeting the following extract from a letter, addressed to Messrs. W. Moran & Co. by Mr. J. W. Foggo, who has lately been the victim of an outrage almost as flagrant as the attack on Mr. Oram; Mr. Griffiths stated that he thought this meeting a good opportunity for bringing this outrage also to the notice of the association:

"I am sorry to inform you I have met with an accident of rather a painful nature.

"On the 12th instant I rode over all the ryottee cultivation of Turruff Nucher, extending along the Bargalee river some five miles. I ordered the elephant to be in waiting a few miles to the north of the factory, intending to return home on it. While doing so leisurely, and examining some lands at one of the villages not in my elakah, but belonging to the nine annas shareholders, with whom I have several cases in court (the greater number of which have been decided in my favour), I was waylaid and surrounded on all sides by about 150 men, and was maltreated most unmercifully. I have nearly lost the sight of my right eye, and write you this with difficulty. To give you some idea of the manner in which I was paid off, I annex a copy of the medical gentleman's report to the magistrate. By the promptness of Mr. Jackson, the magistrate, who was at my factory within six hours after the case had occurred, he was enabled to seize one of the principals and several others concerned within 24 hours nearly. This was wholly an unprovoked attack, as I have not taken a single step, but through the courts, to recover our rights. As the energy of the magistrate is wholly praiseworthy, I have no doubt he will soon have all concerned apprehended. As the case goes on, I will keep you informed. I am glad to say I am recovering pretty fast, and hope to return to Sreeakundy in a few days.

"*P. S.*—The ezardar and tussildar of the nine annas of Nucher, who made the attack upon me, together with 17 of their head ryots, have been committed to jail for six months, and fined from 200 rupees to 50 rupees, together with labour commutable to a future fine in lieu of labour."

This communication was also discussed. Thanks were then voted to the chair, and the meeting separated.

W. H. Abbott, Jun.,
Acting Secretary to the Indigo Planters' Association.

No. 11, Strand, Calcutta,
13 May 1857.

No. 4.—PETITION and REPORT on Mr. *J. P. Grant's* Bill to give better Security to Under-tenures.

THE PETITION:

To the Honourable the Legislative Council of India.

The humble Petition of the undersigned members of the Central Committee of the Indigo Planters' Association, on behalf of themselves and the said Association.

SHEWETH,

That the said Committee have had under consideration the Bill now before your Honourable Council, entitled "A Bill to improve the Law relating to sales of Land for arrears of Revenue in the Bengal Presidency," and have been in correspondence with Mofussil members, with a view to ascertain their opinion respecting it, and which Bill, as your petitioners learn on a comparison thereof with the existing law, has been brought in, chiefly with a view to narrow the penal operation of the Revenue Sale Law, and better to secure shares in Zemindaries and valuable under-tenures to their proprietors against forfeiture under the said law.

Appendix, No. 2.

That as respects these, the essential objects of the said Bill, your petitioners regard it with the greatest satisfaction and gratitude, as fraught with benefit to all classes, not only capitalists and Zemindars, but, in the opinion of your petitioners, the cultivating classes also.

Your petitioners beg to remark, that besides the under-tenures created immediately by Zemindars, and for which protection is provided by the said Bill, there are others of great value, which are of the same nature, such, for example, as durputnees, dur-izarahs, &c., and it would be a great improvement in the said Bill if the same protection were extended to them also, and your petitioners pray that they may be included in the said Bill.

Your petitioners observe that a very elaborate and complicated procedure is provided by the Bill for the attainment of its objects. Many of the details of this procedure appear to your petitioners open to objections, and in the view which your petitioners take of them, they tend to impair the value of the proposed protection.

Your petitioners therefore earnestly desire a reconsideration of the details of the said Bill. They annex to this petition a Report on the said Bill, with extracts of correspondence, and submit the same in the hope that they may be found to contain some useful suggestions.

That subject to such alterations in the details of procedure as may on consideration appear better conducive to the objects of the Bill.

Your petitioners pray your Honourable Council early to pass the said Bill into a law, with an extension of its benefits to all such other under-tenures besides those already provided for, as fall within the principle of the said Bill.

And your petitioners shall ever pray.

REPORT of the SECRETARY of the INDIGO PLANTERS' ASSOCIATION to the CENTRAL COMMITTEE on Bill brought into Council by the Honourable Mr. *J. P. Grant*, entitled "A Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency."

THIS Bill has been for a very considerable time before the Legislative Council and under discussion, and should in the usual course have been reported upon by me much earlier, but few materials for forming a report have been supplied to me, and they have come slowly. I have endeavoured to supply the want of written communications by personal inquiries of members, and in the result I still remain not free from difficulty. Both in the written and personal communications it appears to me, the objects of the Bill are very generally approved and much desired; but on the other hand, the details of that mode or system of procedure on which the attainment of the objects depend, are much distrusted, and by some regarded as unfit for the purpose.

In the course, also, of my inquiries, I have had reason to think that the Bill is not equally acceptable to those whose chief interests are as zemindars; and this has led me to consider whether on any and what grounds the zemindars are entitled to oppose the measure.

Though not necessary for the information of members, it is necessary, for the orderly treatment of the Bill, that I should premise a short statement of what is the present operation of the Revenue Sale Law, and how it is proposed to be altered.

By the Revenue Sale Law of the Lower Provinces the permanently settled revenue is assessed on zemindaries; a default of payment makes the zemindary peremptorily liable to sale, and a sale sweeps away all but a few specially excepted under-tenures. A zemindary is often held by several persons in common tenancy, and sometimes there are sharers in it whose shares consist of distinct integral parts, but the Revenue Law takes no notice of these divisions of interest. This Bill proposes to recognise, as separate interests, shares of a zemindary, whether held by several in common tenancy or consisting of distinct and integral parts of the zemindary, and to allow a separate account to be opened in the Collector's books of revenue to be paid by each sharer; the advantage to the sharer will be that in case of default of any sharer, not the whole zemindary will be put up for sale, but only the share of the defaulter. And with respect to under-tenures created by the zemindar, it proposes to protect them against the consequences of a sale of the zemindari, the effect will be, that the purchaser of the zemindari will take it, not, as now, freed from, but subject to the under-tenures.

Abstractedly considered, these proposals are highly beneficial to sharers in zemindaries and the under-tenure holders. They will be relieved of a great risk, saved much trouble in securing their property, and the tendency of the measure in both cases is to enhance the value of that property.

The two cases of the shares of zemindaries and under-tenures rest on distinct grounds, and must be considered separately. As respects the former, the measure lies solely between the Government and the zemindari-sharers. The Government simply proposes to modify the security which it now has for the realisation of its land revenue, in favour of this class of proprietors. It does, however, reserve to itself, in case of need, the power which it has at present over the whole zemindari, so as to be secure, in every event, against a loss of revenue. Obviously it is a measure of concession, with perfect liberty to those to whom it is proffered not to avail themselves of it. The advantages are too obvious to need minute description. By dividing the revenue and distributing the burden in the same proportions as the right of property and interests, it facilitates payment. If one sharer falls into arrear the consequence is confined to that one. It thus brings within the most narrow limits practicable the penal operation of the Sale Law; and this is an advantage to the entire agricultural community, zemindars, holders of under-tenures, and ryots, for the latter are great, if not the greatest sufferers by a sale of the zemindari under the present Revenue Sale Law.

The case of the under-tenures is less simple. The parties concerned are the Government, the under-tenure holder, and the zemindar. There is no connexion between the Government and the under tenure-holder; the only interest which the Government has is in the revenue, but its policy, on the plea of revenue, has been deeply injurious to the under-tenure holder. Its principle ought to be, that so long as the zemindari is of sufficient value to enable it, by a sale, to realise its revenue, it is indifferent what under-tenures have been created by the zemindar. Now it is the rents which constitute the value of the zemindari. That value would be impaired by under-tenures, on which only pepper-corn or nominal rents are reserved; and this appears to be the only danger against which the Government has to guard. Accordingly the Bill, at the same time that it proposes to relieve under-tenures from the present law, has precautions against admitting to protection those under-tenures on which insufficient rents are reserved. On the part of Government, therefore, the measure is simply a modification of policy in favour of this important class of proprietors, and the sole question which remains is, whether it can be objected to by the zemindars.

Now when I speak of objections, I mean objections founded on some principles of right or equity, and if such there be in this case, they will be found in the contract rights of the zemindar. The contract rights of the zemindar may easily be illustrated in the case of the putneedar (who for this purpose may be taken as a representative of under-tenure holders). The putneedar is a purchaser for a price, or valuable consideration, of a portion of the zemindari lands in perpetuity, with one condition attached, namely, payment to the zemindar of a rent, the equivalent, or supposed to be, of the revenue payable for the lands comprised in the putnee. It is this condition which constitutes the tenure, connects the putneedar with the zemindar, and the putnee lands with the zemindari; and except for the obligation which it contains, the putneedar would have an absolute and indefeasible estate, and would be entirely independent of the zemindar. The putnee rent, therefore, is the only interest which the zemindar has in the putnee lands, and therefore non-payment of that rent is the only ground on which the zemindar can claim any power over the putnee tenure, and it is equally clear, that if the putneedar makes no default, he is fully entitled by his contract to be as secure against the zemindar as the latter is against the Government, so long as he pays the Government revenue.

Now compare these principles with the present state of the law. The law at present is, that if the zemindar makes default in payment of the revenue, his zemindari *shall* be sold free from the putnee; and the putneedar is sacrificed, not because he has made default himself, but because the zemindar did not pay his revenue. What is proposed is, simply that the putneedar shall not in future be sacrificed, and that the purchaser at a revenue sale shall take the zemindari subject to the putnee (and all other under-tenures), except when the putneedar himself is a defaulter, in which case the putneedar forfeits the benefit of the new law. In this proposal I confess I cannot find the smallest flaw in point of equity, and it is perfectly consistent with all the contract rights between the zemindar and putneedar. The only excuse which could be made for any longer continuing the present state of the law would be the necessity of it for the realisation of the revenue; but Government by this Bill denies the necessity.

Few zemindaries comparatively are brought to sale in the present day for arrears of revenue, and of these, except in impoverished parts of the country, a small proportion from the inadequacy of the rents to meet the Government revenue, the rest are put in arrears for fraud, and not unfrequently for the advantage offered by the Revenue Sale Laws. They are sold by the Collector, and often bought for the defaulting zemindar benami. The inducement to the fraud is indeed great. For example, a zemindari is put up for sale for an arrear of revenue, say of 5,000 rupees, and would be worth half a lac of rupees, if the purchaser were to take it subject to the under-tenures, but taking it free of those tenures (as he does) he will give double that sum for it. This enhancement of price, not needed to satisfy the revenue, swells the surplus after deducting from the proceeds of the sale the amount of revenue due, and is paid over to the zemindar, or if the zemindar is himself the purchaser benami, he gets the profit by creating more under-tenures. The sacrifice of the putnee-tenure, therefore, is no advantage to the Government, but is a clear gain to the zemindar; and it is notorious, that zemindaries are wilfully put in arrear by the zemindars for the sake of this and similar advantages, which can only be obtained through the medium of a sale for revenue. But if the case is free from this fraud, and the zemindar unintentionally falls in arrear, the injustice is not the less to the putneedar, nor the profit less to the zemindar; the under-tenure is annulled, the value of the zemindari is enhanced, and the enhanced value goes to the zemindar. He thus gets twice paid for the same thing; first, for a putnee on its creation, and next, at the auction of the putnee-lands, perhaps much enhanced in value by improvements made by the putneedar.

I have taken the case of the putnee holder, but the same reasoning applies to every other valuable tenure, and the evil only differs in degree.

In extenuation of the existing state of the law, it has been said the putneedar purchases his putnee subject to the risk, and has estimated it. It may equally be said he purchased with the chance of an improvement of the law; and of all men the zemindar cannot be

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permitted to object to the removal of the risk by a better law; for, that risk can never become a loss if the zemindar performs his duty; I refer to the obligation which he is under towards the putneedar to pay the revenue.

These remarks will be sufficient, I trust, for the limited purpose for which they are offered, namely, to show that the zemindar has no right to object to the proposed protection to under-tenures.

Having explained the objects of the Bill and defended its principles, I will proceed to examine the details, and the manner in which it is proposed to effect those objects. The provisions respecting sharers of zemindaries are contained in the 10th, 11th, 12th, 13th and 14th sections. By these, "recorded sharers" alone are entitled to the intended protection, and it has been suggested that it should be extended to those who are sharers in fact, but not recorded. But it has been fairly replied, that those sharers who are not recorded may get themselves recorded, and so become in a position to avail themselves of the new law.

The mode prescribed for sharers is to make an "application" to the Collector; for the application of a sharer of a joint estate in common tenancy, no particularity is prescribed by the Bill; indeed, it is obvious from the nature of his interest what must be the form, and that the form would be very simple. But respecting the application to be made by a sharer whose share consists of specific or separate portions of land, the Bill requires that it should specify the land by metes and bounds, and the amount of Sudder jumma paid [contributed] by the applicant. This latter form is subject to the same remarks as hereafter will be made on a similar requirement in the case of the under-tenures, and to those remarks I beg to refer.

The Bill having prescribed the "application," next provides for objections to it, and recognises the following:—

(1) That the applicant has no right to the share; (2) That the interest is less than he claims: (3) That it is of a different nature from that claimed by him.

And upon these objections, when made, the Collector is to institute a summary inquiry "into the fact of possession." And in the case of an applicant whose share consists of a separate portion of land, the further objection may be made, that he has not stated his jumma correctly, and on that objection the Collector is to inquire whether the alleged jumma has been recognised by the other sharers, and according to the result of his inquiry, to admit or reject the application.

It has been remarked that recorded sharers have already established their title (*), and that they ought not to be put to the risk of a second inquiry which will, in many cases, operate as an invitation and inducement to dispute and litigation on a title which never was questioned before; and following up these views it has been suggested that the applicant who proves by a reference to the Collector's books that he is a recorded sharer, should *ipso facto* be entitled to have the separate account of his share opened.

It is to be hoped that this suggestion will be adopted; but if not, it is important to note what is the inquiry which the Collector is to make as the Bill now stands. The inquiry is to be "into the fact of possession." Such an inquiry would be a departure from the application. The application refers to grounds of title; possession may or may not go with the title. The question, therefore, of the fact of title or truth of the application, may be wholly different from the question of possession. If, indeed, unrecorded proprietors were to have the benefit of the Bill, there would be some reason for putting it on the ground of the fact of possession; but I can imagine none why this fact should be inquired into in the case of persons already recorded as having a title. Moreover, what shall constitute "possession" is not explained. There is no word in the whole vocabulary of the law which admits of a greater variety of application. Possession may be constructive, or direct and actual, by oneself, one's agent or servant, or constituted by facts which show an intention to possess, and merely no adverse claim to the possession by any other person. It has been common, I am informed, for European proprietors to have shares of zemindaries recorded in the names of their managers or servants. Who, in that case, the manager or the proprietor, is in possession? If the latter, is he to lose the benefit of the Bill by reason of his not being recorded, though in possession? One tenant in common may alone receive the rents, and pay their shares to other tenants in common; or a manager appointed by one may be in possession, not for one, but for all. Who, in these cases, is in possession? A mortgagee of a share may be in the receipt of the rents, while the mortgagor is the recorded sharer: is the recorded sharer not to have the benefit of this Bill, or is the possession of the mortgagee to be construed as his possession? This is but a small sample of the cases of no uncommon kind, in which the result of an application must be extremely doubtful if the right of the recorded sharer is to depend on the question of possession.

The Bill, also, as framed, appears to me to raise a very doubtful question, or, rather, leaves it very uncertain what is the question to be tried, in the case of a sharer of specific portions of land where the objection is to the amount of the jumma stated by him. The Bill requires the applicant to state "the amount of jumma heretofore paid by him;" and then it provides that, if the objection be that the jumma "alleged by the applicant" is not the jumma "which has been recognised as such by the other sharers," the Collector is to "make a summary inquiry into the fact." What fact?—that the jumma paid is the real jumma, or the fact of payment as alleged by the applicant, or the fact of recognition? And if of recognition, recognition of what?—whether of the payment in fact by the applicant, or of the amount as correct? And what will establish recognition? Will simple acquiescence in repeated payments amount to recognition? Will the acquiescence of one sharer preclude the others from objecting? If one sharer says, "True, the applicant has never paid more than the amount he states, and I and my co-sharers have paid such and such other sums making up the full amount, but we have done so only from the necessity, he having paid too little," is that plea to avail in proof of non-recognition?

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* *See* letter in the "Englishman," 22 May, signed *J. R.*

I offer these purely as practical difficulties which will open a wide door to dispute and litigation, and will render the success of an application in a great many cases very doubtful.

The section relating to the under-tenures are the 35th, 36th, 37th, and 38th.

The under-tenures are classed under four heads:—

1. Istumraharee and mokurraree tenures, held at a fixed rent more than 12 years before the permanent settlement.

To these the new Bill appears to be a disadvantage. By the existing law they are absolutely protected (Act 1, 1845, s. 26, c. 1); but their future protection is to depend on, first, their being registered under this Bill; and secondly, after registration, the rents reserved on them being duly paid up at any time when the zemindari is liable to be put up for sale. If, as I am informed, the tenures of this kind were all ascertained and recorded at the time of the resumption proceedings, it is hard to impose on them the necessity of a new registration, which can be obtained only by means which will open a wide field for dispute and litigation, all the power and influence of the zemindar being arrayed against the applicant; and the tenure will be equally jeopardised after registration by the second condition, through the temptation which it will constantly hold out to deny the fact of payment.

2. Tenures existing at the time of settlement against which the zemindar has failed, or may fail, to prove his right to enhance the rents.

To these, also, the new Bill appears to be a disadvantage. They are protected by the existing law, but their future security is to depend on registration under this Bill, and their rent being paid up at the time when the zemindari becomes liable to sale. I have already stated, and therefore need not repeat here, the objections to which these conditions are open.

3. Tenures of whatever description, and farms for terms of years, which have been created since the time of settlement.

For these tenures this Bill first provides protection, on two conditions: first, their being registered under this Bill; and, secondly, their rent being paid up at the time when the zemindary becomes liable to sale. The observations already made on this second condition, in connexion with the two first classes of tenures, are here applicable; and I may now add, that, dangerous as this condition is in itself, the danger is aggravated by the want of all provision in the Bill for judicially ascertaining the fact of default of payment, and for any notification of it before the sale. If these defects in the Bill are supplied, the under-tenure holder might reasonably claim not to be more harshly treated for his default than the zemindar is by the Government. The zemindar has a latest day, beyond the proper legal period, and therefore, in fact, an extension of time for payment, before his zemindary can be notified for sale; so, by analogy, the under-tenure holder should have the power of curing his default, which, as in the zemindar's case, may sometimes be a default, not of his own, but of his servants.

There is also another qualification on the right of under-tenures of this third class to be admitted to registration. The Collector is, on receipt of the petition, to cause whatever measurement, survey, and local inquiry he may deem necessary for the security of the Government revenue. This provision is a cause of apprehension to members of great experience; they say "measurement survey and local inquiry" can be carried on only by an army of native ameens and their assistants, in whose train follow the well-known and dreaded corruptions; and, following up the prospect thus opened, they apprehend the effect, though less extensive, will be similar to that of the resumption proceedings in unsettling titles and disturbing enjoyment, and from the lamentable fruits of which it is said property in some parts of the country is only just recovering. It surely will be wise to take heed on this warning. The members from whom it proceeds are not insensible to the highly beneficial character of the essential objects of the Bill, and would not willingly renounce them; and it may be hoped those objects may be secured by means free from those objections. Persons entertaining such apprehensions will, of course, not apply for the proposed protection, but some of the consequences may nevertheless reach them. To meet in a degree these apprehensions, it has been suggested that the Collector should have an unfettered discretion to act in each case according to its particular circumstances in directing or establishing the inquiry or survey and measurement.

It has been remarked that the Bill will protect only the original under-tenures:—

"As regards new tenures, putnees only will be benefited by this new Bill. They can be registered and made secure in the event of a sale of the parent estate for Government arrears. But dur-putnees and all other lower tenures cannot be registered, because the proprietor did not create those under tenures. By the 7th rule of section 36, it is pretty plain that only those tenures granted by the zemindar or proprietor of the parent estate can be registered." [Mr. E. Roberts.]

This is a defect, and an inconsequential one. If the rent reserved on the original under-tenure is a fair proportion of the sudder jumma, and is paid up—for both of which the Bill provides, the lower tenures carved out of the original under-tenure are of no importance to the revenue, and their safety should be left dependent on that of the parent tenure, standing or falling with it, but in respect of their own interests the dur-tenure holders should have the means of preventing a forfeiture of the parent tenure.

After this enumeration of under-tenures, which are to be placed under protection, come, in sections 36 and 37, the means by which the proposed protection is to be obtained. It is ultimately by registration of the under-tenure, and this is to be obtained by petition to the Collector, the particulars of which petition are minutely described by the Bill. Notice of this petition is to be given to all parties concerned, and they are to have the opportunity of making objections; and then the case is to be heard on evidence. This procedure is regarded by different members with various degrees of apprehension, as a probable source of frauds, forgeries, and perjuries, the usual instrumentality of Mofussil litigation.

In reference to the application to be made by sharers of zemindaries, I have alluded to the difficulty of complying with the required form. The difficulty will be still greater of following up the required petition. More minuteness of detail could hardly have been required in the petition if it had been devised to satisfy an English lawyer advising for an unwilling purchaser on a title. The petition is to comprise particulars classed under no fewer than nine heads; (1.) the pergunnah or pergunnahs in which the tenure [land] is situated; (2.) the denomination of the tenure; (3.) the name or names of the villages whereof the land is composed; (4.) the area and boundaries in complete detail; (5.) the amount of rent cesses and duties payable; (6.) the date of the deed constituting the tenure, or date when the tenure was created; (7.) the name of the proprietor who created it, and name of (8.) original and (9.) present holder, and relation between those two, and manner in which the latter acquired it.

The first and third, and second and fifth, are perhaps unnecessarily separated. The first, second, and third standing, the fourth might be dispensed with. To establish the sixth, the deed or writing I should suppose must be produced and proved, which might alone be sufficient. The fourth requirement is regarded as in a great many cases impracticable, and the case is not provided for in which the deed is lost, probably not a rare occurrence in the case of the older tenures.

It is true there is this qualification, viz. that these particulars are to be given "as far as they are ascertainable," the rule therefore is open to exceptions; but what are the circumstances which may excuse compliance with the rule? It is true also that if no objection is made, the Collector is only to make "due inquiry," and to be "satisfied." There is, therefore, in *ex parte* cases great latitude, and a dispensing power in the Collector; but this also gives opportunity and scope for the arts of the amlah. Moreover, at any time within a year, "any party dissatisfied" with the award may institute a civil suit to set it aside; which, whatever may be the extent of the privilege, whether it is to be exercised only when the award has been made after a summary investigation or exercised generally, detracts from the value of the registration.

In the annexed extracts from corespondence will be found several other remarks and suggestions on the Bill, from members of great Mofussil experience.

The question remains, can the important objects of the Bill be attained with fewer checks and precautions, and on a simpler plan, consistently with the perfect security of the revenue which is provided, or intended to be, by this Bill? The latter part of the question raises another. If those parts of the plan of the Bill are abandoned, which are directed to the ascertainment whether fair rents have been reserved on the under-tenures, what security can the Government have in their place for the safety of its revenue? The following plan has been suggested: That the under-tenures should be registered in the office of the Collector on proof simply of the deed or writing by which they are created, an abstract of which should constitute the record, and that all tenures so registered should be protected. The protection, in the first instance, would be that the zemindary would be put up for sale, subject to the under-tenures. If the bid at the sale exceeds the arrears of revenue, no question arises to affect the under-tenures. If, on the other hand, the price offered falls short of the arrears of revenue, a few days should be given for an under-tenure holder to come in and pay the arrears, he being permitted to stand in place of a mortgagee, or at his option, a purchaser. There may be an under-tenure holder without means to avail himself of this privilege; in that case, by analogy to the Bill as it now stands, any under-tenure holder should have the opportunity of establishing the *bonâ fide* character of his rent and tenure. As an ultimate resource in the interest of the revenue, the zemindari might be liable to sale free, as now, from the under-tenures; but in that case the price realised being partly made up of the value of the under-tenures, should be regarded as clothed with a trust to compensate the under-tenure holders for their loss, and a liberal measure of damages should be legislatively established. The compensation should cover the price originally paid for the under-tenure and its improved value. If the surplus proceeds of the sale were retained till claims of this kind were satisfied, there would be an end of the common fraud of zemindars making default for the sake of the gain to be derived from a sacrifice of the under-tenures.

It has been suggested that there may be parts of the country where the plan proposed in the Bill could be extensively applied without the consequences apprehended by some members. And in this view, that plan with a few alterations might be retained, and some such plan as is above suggested be superadded to it. The Bill would thus become universally acceptable.

W. Theobald, Secretary.

10 June 1856.

On the Original **Affray Bill**, referred to in the Evidence of *W. Theobald*, Esq.

To the Honourable the Legislative Council.

The humble Petition of the undersigned Members of the Indigo Planters' Association, on behalf of themselves and the Association.

Showeth,

That the said association was formed in the early part of the present year, 1854, for the purpose (among other things) of watching the progress of legislation in all matters of concernment to the classes to which its members belong, of collecting information on the state of the country and placing it at the disposal of Government, and of promoting beneficial reforms; and it comprises among its members, planters, mofussil dealers in produce, and merchants, many of them connected with the largest concerns in Bengal; indeed the advances of capital for indigo cultivation and other agricultural and industrial investment by the members of this association, and the class to which they belong, may be represented as amounting to some millions sterling, chiefly British capital.

That the Bill now before your Honourable Council, intituled, " A Bill for the more effectual Suppression of Affrays concerning the possession of Property," affects all kinds of interests connected with the land and its productions, as also the security of capital and value of property, and deeply concerns the interests of the members of the said association. The association and the undersigned have therefore carefully considered its principle and provisions. To nearly all its provisions they object (but not to its principle) for reasons which they have maturely weighed, and which are embodied in a Report subjoined, which, after having been carefully prepared by a committee, was adopted by the said association.

That your petitioners respectfully submit the substance of the said Report to the consideration of your Honourable Council. In the said Report it is remarked, that the said Bill has passed a first and second reading without previous report, note, warning, debate or speech of any kind, which your petitioners apprehend is true in fact, but your petitioners at the same time admit that the regular course of legislation, according to the standing orders, has been pursued, and your petitioners would by no means suppose that a Bill of such great importance would pass a third as well as a first and second reading without full report and deliberation thereon.

That, in the opinion of your petitioners, many of the powers given to magistrates by the said Bill are suited only to a state of great social disorder or disorganization, and therefore, if necessary, they should be limited to the emergency deemed to require them, and neither be passed as perpetual nor be extended to the whole of Lower Bengal; and from these principles it follows that such a Bill ought only to be passed on previous inquiry of the most formal, public and solemn kind, of which there has been none. And your petitioners beg to add their assurance that in any emergency requiring the establishment of extraordinary powers, your petitioners and the classes to which they belong would be found on the side and among the best supports of law, order and government, and they would welcome at all times the fullest inquiry into the state of the country, as sure to prove that the establishment of Europeans is productive of commercial and social effects which are beneficial to the population and conducive to order and improvement.

That, for the purpose of authenticating this representation on behalf of the said association, your petitioners beg to state, that the members thereof met after public advertisement for a general meeting, and passed the following among other Resolutions, viz., " That the Report just read" (being the Report subjoined) " has the warm and cordial approbation of this meeting, and that a Memorial to the Honourable the Lieutenant-Governor of Bengal and Petition to the Legislative Council be prepared in accordance with it, and that all necessary measures be taken to prevent the Affrays Bill passing."

That your petitioners, deeply impressed with the injurious nature of the said Bill, pray your Honourable Council to take this Petition and the said Report subjoined into your most gracious consideration, and not to pass the said Bill, and also that your Honourable Council will be pleased to hear counsel in support of this Petition and against the said Bill.

And your petitioners shall ever pray.

Appendix, No. 2.

REPORT of the Committee of the INDIGO PLANTERS' ASSOCIATION on the Draft Bill now before the Legislative Council, entitled, "A Bill for the more effectual Suppression of Affrays concerning the possession of Property," being the Report referred to in the above Petition.

THE Committee beg to report to the Association that the secretary has received from district committees and members in different parts of the Mofussil, communications on the subject of this Bill, all expressing the greatest alarm at its provisions, and urging the committee to take all possible means of preventing its passing into a law. The members of the committee also themselves can testify from a very extensive personal acquaintance in the Mofussil, that the feeling of alarm is very general, and the committee has the satisfaction of adding, that a considerable portion of the European community of Calcutta not immediately interested in the Bill, and many of their native friends also, sympathise with them, and this committee believe that if there had been time, a considerable body of persons, not members of the society, would have co-operated with them on the subject of the Bill.

For the purpose of reporting upon it, your committee have considered the Bill under the aspect, first, of its general character and principles, and, secondly, with reference to its apparent objects, and the powers which it contains for their accomplishment.

The committee approach these subjects under the disadvantage of not being furnished with any exposition of its motives or principles, no such exposition having been given either by the at present unknown author of the Bill, or by the Legislative Council. It has been brought in, and read a first and second time, without previous report, note, warning, debate or speech of any kind. The committee, therefore, beg first to record their sense of its very grave importance. It is locally limited to the Presidency of Bengal, but within that Presidency the whole agricultural community, and all kinds of interests connected with the land, are affected by, or are within the scope of its provisions.

It appears extraordinary to the committee, that a Bill of such extent and importance should have been brought to its present stage without some notice or some invitation for the expression of an opinion to some of the classes concerned; and to this fact the committee wish specially to direct attention, because it is obvious that no opportunity for the previous expression of opinion having been given, the society has really no alternative but that of embarking at once on a public discussion of the measure, and, according to their view of its merits, a public opposition.

The principle of greater part of the Bill appears to be the same as that of Act IV. of 1840, of which it purports to be an alteration and extension. The main principle of Act IV. was, and consequently of the present Bill is, unexceptionable—that of securing all actual *bonâ fide* possession against disturbance by violent means, and interposing the authority of the executive magistracy to prevent force where there is reason to apprehend it, or to deprive it of its advantages where it has been actually used and successful. This committee give their most entire approbation to these principles; and Act IV. of 1840 would indeed have been a boon and a blessing, if, resting on such principles in the abstract, it had given effect to them, but according to general opinion it has not, and the preamble of the Bill now under consideration in effect confesses it, and recites that the provisions of Act IV. have been found insufficient, and therefore that it is expedient to extend and alter the same.

It is obvious to remark, that if Act IV. had answered its purpose, its extension to new subjects would have been unobjectionable; or that if the alterations now proposed had remedied the defects of Act IV., or secured a proper administration of it, the amendments and extension would have made the present Bill acceptable. The question, therefore, arises, in what respect has Act IV. failed? and this may generally be described in a very brief proposition. Act IV. though intended to supply a simple procedure for the ascertainment of a very simple fact, or state of facts, that of actual possession or dispossession at a given point of time, has resulted merely in the establishment of a new and anomalous kind of litigation, in which the simple nature of the question to be decided is lost sight of, every variety of documentary evidence is received, as if the right were in question and not that of mere possession or dispossession, and most of the evils of a regular suit, such as forgery and perjury, have been let in. In short, Act IV. has been perverted from its main object of ascertaining summarily the simple fact of possession or dispossession, and it has been administered in a manner at variance with its spirit and principle. The committee has to add that the alterations made by the present Bill not only afford no correction in this respect, but aggravate the dangers and other ills which result from the abuse of Act IV., by cutting off the right of appeal.

2. The committee will now proceed to report on the details of the new Bill, and must bespeak patience and an indulgent consideration, in respect of the task being in a degree technical.

Section 1. Requires no further remark than that it repeals two sections only of Act IV. of 1840. Whether it be the intention that the rest of Act IV. should remain in operation, may be questioned; and what may be the eventual effect of thus repealing only part of the Act, and in the new Bill dealing with subjects included in the unrepealed parts of Act IV. in an altogether different phraseology, this committee is unable to say; but it is a feature in the new Bill, of sufficient importance to be reported to the society.

Section 2. Describes the kinds of property to which the executive and judiciary provisions of the Bill are intended to apply. On this description it may be remarked, that it includes all the kinds of property comprised under Act IV. and some others; whereas Act IV. extended only to disputes about actual corporeal possession of land and similar hereditaments, and was intended to quiet possession, properly so called, or to actual use, and was intended to secure the actual use, till the right to the possession or use, as the case might be, was ascertained; the new Bill extends also to mere money claims, which this committee thinks is of exceedingly doubtful expedience.

Section 3. Empowers the magistrate to attach (which means take possession) of the subject of dispute; but there is this important difference between Act IV. and this Bill, whereas Act IV. only authorized property to be attached after inquiry, and only in the case of magistrates being unable to ascertain what party was in possession, this section of the new Bill empowers the magistrate to attach the property before inquiry, in other words, on the mere receipt of intelligence, perhaps of the most vague kind, that there is a dispute and a breach of the peace probable. The Jessore committee have given some illustrations of the dangerous character of this provision; it appears to be regarded by the Jessore committee as striking at the foundation of property, and this committee regards it as of the most dangerous character.

Section 4. Appears to be an indirect mode of charging upon the agricultural community a portion of the necessary expenses of a public police force; and it is questionable in point of principle, and practically objectionable as being exceedingly likely to be abused.

Sections 5, 6, 7 and 8. Observations of some importance might be made on these sections, if the committee merely recommended amendments and alterations in the Bill; but as the committee are of opinion the Bill ought not to be passed at all, it would be a mere waste of time to discuss minute amendments.

Section 9. Takes away the right of appeal against any order of any magistrate or collector under the Bill. The committee have to observe, that the almost universal institution of the right of appeal is one of the peculiar features of the East India Company's judicial and magisterial system. In no other system is it found to such an extent. Its expediency in this respect has been the subject of much discussion, in which, it may be observed, the Indian Law Commission, and every authority having a deliberative voice in legislation have joined, and the result has been in favour of the universal right of appeal. The grounds are well known, and may briefly be stated to be the settled belief that it would not be safe for the public or right in the existing state of the Company's judicial and magisterial establishments to allow their orders and decisions to be final in the first instance, or without appeal. It could only be on these grounds of, if the expression may be permitted, a foregone conclusion of public policy, that Act IV. gave the right of appeal. This committee and the Mofussil committees and members generally attach the highest importance to this right of appeal, and their experience under Act IV. only serves to confirm their opinion of its essential importance, and that it is as important under Act IV. as in any other litigation. The Jessore committee says, "If suits of this kind could always be tried by officials of ability and experience, we allow that the first order should be decisive, and that no appeal should be allowed. But it often must happen that young and inexperienced men have to try such cases; men who, from being ignorant of Mofussil doings, are necessarily much in the hands of their amlahs. If it is known how important to indigo planters and to zemindars the Act IV. decisions are, it will at once appear how necessary it is that an appeal to a higher authority should be allowed." And indeed this really is confessed in the Bill, for though the right of appeal is taken away, the Sessions Judge may, on application of the parties concerned, call for the record, and require the magistrate to take further evidence, &c. The remarks of a very experienced and intelligent member (Mr. Forlong), in a letter to the secretary on this anomalous substitution of a proceeding, for which it is impossible to find a name in any system of jurisprudence, deserves also to be quoted: "No. 9, taking away the power of appeal from a magistrate, and giving the judge only the right to send back a case for further inquiry to a magistrate, who can be supposed guilty of denying any one a fair hearing, is something that will rather astonish the people of England, more especially when, as I said above, the magistrate may not only be deficient in experience, but put into his situation from no merits of his own, or any aptitude for the discharge of its important duties ever inquired into; and this perhaps in a district about four times the size of Lanarkshire, whilst Jessore adjoining has an area of 5,180 square miles, or within 500 miles, of the size of Yorkshire, and yet I have often heard a magistrate complain that he had little or nothing to do, arising solely from the people, seeing how utterly hopeless and expensive it was troubling him at all." It may also here be repeated, that the mere denial of the right of appeal, and the substitution of the discretion of the judge, is no true correction, nor so intended, of the mal-administration of Act IV., nor any restoration of its spirit or principle.

Section 11. It would not have occurred to this committee to take an objection to this section, which is of a merely supplementary kind; but the secretary has pointed out dangers which the committee quite apprehend. To make it an offence, as the section does, to use force in opposing a judicial order is just and expedient, and might well be part of the general law, and therefore unnecessary to be made the law by a special enactment of a limited kind; but this section also makes simple "threats" penal, without defining what kind of threats they must be, or to whom or in what place they must be made; so that it appears to the committee that mere idle words of heat and passion, spoken perhaps to a darogah or chowkeedar under provocation, and at a great distance from the place in question, may bring on a person, whom the decision may really have wronged, the punishment of imprisonment with hard labour or fine. The same objection applies to the offence of "knowingly contravening" an order; it is not force, because that is already provided against; nor can it mean threats, for the same reason. What is meant? Clearly it is but one step removed from making "thoughts" punishable.

Section 12. It must be obvious on a careful examination of this section, that an important portion of it belongs rather to the general criminal law than to the proper subject of the Bill; the committee refers to that part of it consisting of general words by which it is made to apply, not only to breaches of the peace, but to other crime, that is, all kinds of crime. The Jessore committee, of course, not adverting to this feature of section 12, but regarding its reference merely to breaches of the peace in disputes about land, have made the following very pertinent and, this committee thinks, just observations :—"Section 12. If this be passed, a door will be opened for great oppression; nothing is more common than for ryots, whose intention it may be to evade their indigo contracts, or the payment of the rents to zemindars, to make a complaint that an indigo planter or zemindar has assembled gangs of men, with the intention of breaking the peace. This peechbundy petition, as it is called, requires few witnesses to substantiate it, and the magistrate might then, by the proposed law, send bodies of police to be quartered on the party thus fraudulently complained against. These men, who will be hangers on at the courts, people of worst character, are not likely to be satisfied with the legal charges they are entitled to. They will demand presents daily, or they will make false reports, which will in time force the unfortunate sufferers to their terms. The oppressions that will be caused in a hundred ways by this arbitrary law, are so well known to all who have any Mofussil experience, that it is surprising such a law could ever have been conceived. It looks like a law not to keep peace in the Mofussil, but to drive people from it."

Section 13. The committee finds from the correspondence and personal report of the secretary, that members differ in their opinion of this section. Probably those who approve it as a whole have not examined it in detail, and their approbation therefore is scarcely to be weighed against specific objections. Objections of considerable weight have been taken. The section, in the most general words, empowers the magistrate arbitrarily, that is, without reason assigned or apparent, to call for a list or report of all kinds of servants, except menial employed in a zemindary, factory, or other business establishment; and to call for such list as often as he pleases, and at any time; and not only of persons in the service at the time, but of discharged servants, and all who were in the service any part of the current year. The Jessore committee observe: "To this section 13, we see only one objection, namely, that fixed periods should be given for such reports to be forwarded. It would be very harassing that they should be called for continually by magistrates; but by the proposed law, it would appear that they have the power to do so;" and it may be added by this committee, that the section makes no exception of unintentional omissions of any names whatever from the list, omissions from oversight, or not recollecting, cases very likely to occur, as must be obvious on a consideration of this section.

Section 14. This section invests magistrates with a purely arbitrary discretion to require the discharge of any servant or retainer of any owner or occupier of land. The magistrate has only to "see reason to believe" that the servant is likely to commit a breach of the peace, and the magistrate may require his dismissal. The section appears to the committee to be without a parallel in all that they have heard or read of in the annals of legislation, in any part of the world. The master is to be no longer master, nor the head of his own establishment; but is to carry on his business, often of a very various kind, in subordination to a public officer, who has no interest in his concerns. A magistrate may require the discharge of a servant without knowing how essential his service may be, or what ruin would follow his dismissal, and that without previously calling either master or servant before him to defend himself from an unjust charge or unjust suspicion; but after having done it he must record his proceeding. Such a power belongs, in classification, to that extra legal kind which are sometimes assumed in extraordinary emergencies without being previously given, or if given, are given only in times of real public alarm and political danger, and a strict justification after the event is required from those who assume them. It has been remarked that the proposal of such law is a condemnation of the existing system of government. If the lower provinces of Bengal require such a law as in this and the connected sections, its condition might indeed justly be said to be fearful. If every zemindaree contained a small fort full of fighting men or club men, if every indigo factory was a focus of disorder and violence instead of being the home of European intelligence, a seat of commercial enterprise and industry, and the abode of capital, where success depends on economy and prudence, and no force generally is kept except for the purposes of necessary defence against dacoits and depredations, and to carry on business of a legal kind, the proposal of such a law would be barely tolerable. So far as European planters and other Mofussil Europeans are concerned, it casts, or may appear, where they are not known, to cast a stain upon them and their establishments, which, by their regard for their own fair name and fame, and their country's name, as British and Christian, gives them very great pain; and with reference to this, the committee have already sent to the press for distribution the opinion entertained by one of the most enlightened of Governor-generals of Europeans in India, upwards of 20 years ago, given in refutation of similar attempts to depreciate British people. Other measures of vindication will doubtless follow. To dwell therefore no longer on this painful view of this and the connected sections, the committee report it as their opinion, that if such a law were passed, its immediate effect as respects indigo factories would be, that employment in them would be avoided by respectable persons, both Natives and Europeans; the existing proprietors would desire as early as possible to disengage their capitals; depreciation of the value of factory property would instantly take place, and this new law would have brought on new evils, the magnitude and importance of which cannot be foreseen.

It may be as well to quote from a very miscellaneous correspondence some of the remarks on section 14. The Dacca committee says:—"The committee view with alarm the Draft Act in substitution for Act IV. of 1840, it being their opinion that the magistrates have at present most ample powers for preserving the peace, and that the power of ordering planters or zemindars to dismiss their servants, with which it is proposed to invest them, and which would be attended with no beneficial results, is highly dangerous, especially in the hands of young men, from among whom magistrates are at present chosen. The experience of all our members is, that when the magistrate is a man of intelligence, temper and judgment, he can manage a district with the laws at present in force, but when otherwise, vesting him with higher powers would merely increase his means of doing mischief and creating discontent."

The Jessore committee says:—"We consider that the power to be given to magistrates (in section 14) is so totally opposed to the rights and interests of capitalists in the Mofussil, that it would tend to check all investment of capital therein. Let us suppose the common case of a factory gomastah through whom advances had been made at the commencement of manufacturing operations: thousands and thousands of rupees are given to this man, and upon him entirely depends the planter's reliance to work off his indigo plant; should this man be dismissed by a summary order of the magistrate, through perhaps a false complaint made by a private and secret enemy, the planter might be utterly ruined. Or suppose an assistant in charge of an important division of a valuable concern, which, from his having superintended it for years, he is well acquainted with, but for which a new assistant would for some months be useless. How easy it is to see the ruinous consequence that would incur from an order by a magistrate to dismiss the assistant, and it may be added, nothing could be more arbitrary and cruel. It would be thus to deprive a man of his very means of existence, for who would dare employ a man objectionable to the authorities? Another suppositious case might be given, changing the locality. Were the same power conferred upon a Calcutta magistrate, what would be the position of a mercantile firm were they ordered to dismiss their most valuable assistant, whether European or Native, at a moment's notice? When it is notorious that false charges are quite as common as true ones, and easily provided, such a law as is now proposed would cause incalculable injury. A factory might be closed, the collection of a zemindary might be stopped by a careless order of the magistrate."

Section. 15. The committee reports on this section with mingled feelings of surprise, sorrow, and indignation; surprise, because it appears to them to have reference to a supposed state of things which really has no existence. Where, the committee asks, are the "club men," the "fighting men," and "others," thus designated as a criminal population? It may be said if the offence supposed does not exist, the law will have no application. But it is eminently adapted for misapplication. This committee is not aware of the existence of any other clubs than the bamboo stick, in the native language a lattie, and in many districts it is the habit of the whole population to carry them; of necessity every concern has an establishment armed, so to say, with latties; therefore club men, therefore fighting men, and of necessity employed, because there is no public police which can in any degree be depended upon. In every agricultural and commercial concern in the Mofussil, the house and premises require a protective force, formerly a much greater force than at present; without private guards the property of various kinds, often a good deal of treasure, would not be safe; such is the state of the country, that no proprietor could safely send about the messengers or peons without a club or lattie for self-defence; such then being the case, how is this lawful employment of club men, to adopt the exaggerated phraseology of the Act, to be distinguished from the unlawful? How is the intent to employ them unlawfully to be established? It may be replied in the 14th section, the magistrate must "see reason to believe it." But the question returns, "see by what means and by what evidence?" And what is it that he is to see? "reason to believe" the existence of what? Of an "intent." Thus we have thoughts, imaginations, internal conceptions, in other words "intents" evidenced by nothing but the possession of a stick or lattie brought within the criminal jurisdiction of magistrates.

The penalty imposed by the 15th section has justly been animadverted upon, with a mixture of indignation and ridicule. For every person "engaged" with intent "to facilitate" riot, the employer or hirer is to suffer imprisonment not exceeding six months, or at the magistrate's discretion, a fine not exceeding 200 rupees, which might thus be made at the pleasure of an informer to amount to lakhs of rupees, or to imprisonment for a couple of centuries.

If any further means are necessary for the better prevention of affrays, this committee thinks the proper measures are indicated by Mr. Forlong. "The truth," says that gentleman, "however really is, that if there is a determination to put down the possibility of any breach of the peace in a district where European settlers are numerous, and large capital employed, a chief magistrate of never less than 15 years' standing in the service, and with a character for both energy and discretion, must be employed with powers much more extensive than magistrates have hitherto held, giving him a well paid European staff, and this would make an affray impossible, and could give reasonable offence to no one. Or, if this plan is too expensive, appoint such a magistrate as I have named, and give him the support of some of the best men in his district as justices of the peace, a simple and most inexpensive way of making the law more powerful; for every man who would accept such an office, and be sensible of the dignity conferred upon him, would be still more alive to the degradation and shame any improper or partial exercise of his duty would to a certainty entail, and such men may be had if they are sought for. At present, the whole machinery a magistrate has to depend upon is corrupt beyond belief; and to give more power without more experience to exercise it, and more truthful and active vigilance to detect all the tortuous chicanery and deceit with which he is surrounded, is about the most incongruous determination which any sane body of men ever yet arrived at."

Section 16. Obviously lays open the whole class of natives who are employed as burkundazes and peons, and in that capacity are a useful and necessary class of servants, to false charges of having taken hire or otherwise engaged themselves for unlawful purposes, when, in fact, they have only been employed in, or engaged for their proper occupations.

Section 17. By an Act passed in 1845 (Act 5), commonly called the Mochulka Act, powers, than which greater are difficult to conceive, were given to magistrates to take security against anticipated breaches of the peace, and this committee is of opinion, that that Act is sufficiently comprehensive to embrace all cases in which the security of a Mochulka should be required to be given. This section appears chiefly intended to abolish the necessity or practice of calling at least for some evidence as a ground for requiring security to be given, and in the place of evidence it puts the report of a police officer as credible information. The credit given judicially to the reports of darogahs, is one of the peculiar features of the East Indian Company's system, and a source of the greatest bane to the population. On those who can pay, they are used as the means of systematic extortion, and on the poor, of oppression. To give further effect to police reports is only to aggravate an evil, the enormity of which can be understood only by those who have actual experience and are within the sphere of its influence.

Under the Mochulka Act it is not legal, this committee believes, to arrest in the first instance; but this section authorises the arrest in the first instance, without notice or summons. The Jessore committee remarks:—"With reference to the power to be given to magistrates, to issue a warrant for arrest, even before an answer is asked for, we can only say that the law will be a most arbitrary and harsh one, which no civilised people should be subjected to, and certainly most unfit for Englishmen." This committee entirely concur in this observation. Without wishing to make any distinction to the disadvantage of native proprietors and other natives in the Mofussil, it is obvious that in case of criminal or unlawful intention, the native, if he chooses to avail himself of them, has opportunities which are not possessed by an European. For example, the European is the head of a large concern, or of some known branch of a large concern, and generally his presence at his place of business is indispensable; the native establishment cannot go on without him. There is no place of pilgrimage to which he can go, a couple of hundred or a thousand miles off, as may suit his fears, his devotion, or his inclination, and where he may be lost in the multitude of his countrymen, or become sacred in their estimation, while a grave suspicion or charge is hanging over him,—no such place is open to the European. His property also, whether his own or managed by him, is known; by habit he is indisposed, by the English law which applies to him he is incapacitated, to put it into the name of a third person, or convert it into a benami, as the native may, and in that shape secure it from attachment. These peculiarities in the condition of the European are considerable, and with reference to them this committee think that a discretionary power to arrest in the first instance, for the mere purpose of requiring security, ought not to be given; and that in any case the conditions under which an arrest may be made should be expressly stated and strictly defined, whether in respect of natives or Europeans.

Section 18. Gives the power of pardoning accomplices in cases of riot and affray, and thereby only multiplies the opportunities, already too numerous, of perjurors in the Mofussil to sell their services, by offering to confess being accomplices in an affray which never in fact happened, and thus they may at once get up and prove a charge of an offence altogether unreal. This is only one of many consequences likely to flow from this extension of the power of pardon. Besides, in the opinion of this committee, it is not the interest of society thus to make light of the prerogative of pardon, even if great abuse of it were not probable.

Section 19. Applies in terms "to persons who may be proved to be in the habit of engaging themselves for the purpose of aiding the commission of riot or affray," and extends to them an old regulation regarding budmash, &c., which has already placed the rural population much in the power of the police, and has been perverted to great oppression.

A case has been reported to the Secretary for the purpose of illustrating the operation of the regulation referred to. A factory chowkeedar, known by his employer to be a steady and good man, was reported by the darogah from some motive of spite, probably of some third person, and through the inducement of a bribe, to be a budmash, and the magistrate, solely on the credit of the darogah's report, required him to give security for 100 rupees, with one surety, which of course a man whose wages were only 2-8 per month, and all his possessions not worth 10 rupees, could not do; on default of this he was imprisoned for one year; at the end of which he was again required to give security, which he could not do, and on report of this default he was further ordered to be imprisoned for two years. To this second imprisonment the sanction of the judge was necessary, and was given as a mere matter of course, such cases never being dealt with judicially. Without entering therefore into any detailed criticism, the committee regards section 19 as open to the most serious of all objections, viz., that it increases the power of darogahs and other police over the population. It empowers a darogah to report a man whose occupation is the lawful one of a chowkedar or burkundaz or durwan to be a person proved to be employed for the commission of riot or affray, and the man is ruined, taken from his wife and children, who of course are thrown abroad to swell the ranks of pauperism or crime.

Your committee has now rapidly reviewed the several clauses of the Bill. From the haste with which this task has unavoidably been performed, many of its defects have doubtless escaped them, but enough appears to induce them to put on it their most unqualified condemnation in all its parts and as a whole. Has Act IV. failed to confer the benefit for which it was certainly designed and apparently adapted? Undoubtedly it has, and that it has is confessed on the face of the Bill. Why has it failed? Certainly not from any limitation contained in it on the powers conferred by it on the magistracy: yet the chief remedy which this Bill affords is the aggrandizement or increase of the powers of the magistracy. Why, then, the committee repeats the question, has Act IV. failed? Certainly not from the too narrow and restricted limits of the criminal code of the East India Company: yet another chief remedy of this Bill appears to be the bringing into the category of crime things never brought under criminal judicature before. And while the Bill thus extends the definition and enlarges the catalogue of crime, it in a still greater degree extends the power and influence of the native police, which is notorious for the abuse of power. This committee therefore is of opinion that the present Bill will aggravate all the ills which it may be designed to prevent, will create new ones, and the committee recommend that the Society take all the means in its power to prevent its passing, and that with this view a Petition should be addressed to the Legislative Council, and a Memorial to the Honourable the Lieutenant-Governor of Bengal, and that deputations should wait on the Governor-General and Lieutenant-Governor to the like end.

W. Theobald, Secretary.

The above was communicated to the Bengal Chamber of Commerce; and was acknowledged by the Secretary of the Chamber in the following letter:—

Sir, 28 October 1854.

I AM instructed by the Committee of the Chamber of Commerce to acknowledge the receipt of your letter of the 25th instant, accompanied by a printed abstract of proceedings of a meeting held on the 20th instant, to receive a Report of a Special Committee upon a Government Bill "for the more effectual Suppression of Affrays concerning the possession of Property."

The proceedings of that meeting have been observed by the Committee with no ordinary interest, and I am desired to assure you that its co-operation shall not be wanting upon any occasion where its services may be called for, and can be rendered available to obtain the abandonment of a legislative enactment restricting the liberty of planters and others, and conferring dangerous powers upon Government officers of inadequate experience.

Appendix, No. 3.

Appendix, No. 3.

FORT WILLIAM—HOME DEPARTMENT.

REVISED RULES for the Examination of Assistants in the Lower Provinces of the Bengal Presidency.

EXTRACT from a DESPATCH from the Government of India to the Honourable the Court of Directors in the Home Department, dated the 23d December, No. 95, of 1853.

Revised Rules for the examination of assistants in the Lower Provinces of the Bengal Presidency.
Home Cons. 23 Sept. 1853, No. 1 to 8.

7. In continuation of our letter, No. 89, dated 2d December, we have the honour to forward copies of certain revised rules passed by the Government of Bengal, for the examination of assistants in the Lower Provinces of the Bengal Presidency.

8. Copies of these rules have been furnished to the Local Governments and to the Foreign Department.

EXTRACT from the PROCEEDINGS of the Most Noble the Governor-General of India in Council, in the Home Department, under date the 23d September 1853.

Nos. 1 to 3.

(No. 1618.)

From the Under Secretary to the Government of Bengal, to the Officiating Under Secretary to the Government of India, Home Department; dated Fort William the 29th August 1853.

Sir,

General.

IN continuation of the papers ~~which were submitted~~ to the Government of India with this office letter, No. 881, dated the 21st April last, I am directed by the Most noble the Governor of Bengal, to forward the enclosed two printed copies of the revised rules for the examination of assistants in the Lower Provinces.

I have, &c.
(signed) *W. G. Young,*
Under Secretary to the Government of Bengal.

Fort William, 29 August 1853.

REVISED RULES for the EXAMINATION of ASSISTANTS.

(No. 4.)
Enclosure.

I. *Half-yearly Examinations of Assistants.*—A half-yearly examination of assistants, liable under these rules to examination, shall be held in each division in the months of March and October of each year. The examinations shall be held at the station which is the head-quarters of the Commissioner of the division; or, subject to the permission of Government, at any other station in the division which that officer, on each occasion, may appoint.

II. *Two Qualifying Standards.*—At these half-yearly examinations there shall be two standards of qualification, according to one or other of which the assistants shall be examined. An assistant must be examined and found qualified according to the first standard, before he will be vested by Government with the special revenue powers described in section 21, Regulation VIII. of 1831, or the special judicial powers described in clause 3, section 2, Regulation III. of 1821. An assistant who has been found, at some previous examination, qualified according to the first standard, must be found qualified ~~according to the second standard before he will be considered by Government capable~~ of holding the full powers of a Joint Magistrate, or the full powers of a Deputy Collector.

III. *Effect of passing by each Standard.*—An assistant who has passed according to the first standard of examination, and who has been six months at a station as an assistant, will usually be vested with the special powers when recommended for such powers, in the usual manner; but an assistant, though passed according to the second standard, will not be vested with full powers until he shall have been, at least one year, exercising the special powers of an assistant in the Judicial Department.

IV. *Assistants with full Powers must pass.*—The Government will promote to a joint magistracy and deputy collectorate of the second grade no assistant of those who have been already vested with full powers, who shall not have been examined under these rules, and found qualified according to the second standard. All assistants will be promoted, under ordinary circumstances, in the order of their passing the examination now prescribed, according to the second standard of qualification.

V. *What Assistants are to be examined.*—All assistants who have not passed according to the first standard of qualification fixed by the present rules, and who have been more than six months at their stations as assistants, shall be subjected to half-yearly examination. And all assistants who have passed according to that standard, but have not passed according to the second standard, and who have been more than two years at their station as assistants, shall be subjected to half-yearly examination. All other assistants, who have not passed according to the second standard of qualification, may be examined at any half-yearly examination, with the special permission of the Commissioner of their division previously obtained. Assistants examined under these rules will draw the usual travelling allowance to and from their respective stations.

VI. *Central Examination Committee.*—The Government will constitute a committee, to be called the Central Examination Committee, by whose instructions the Commissioners shall be guided, and with whom they shall correspond on all matters connected with these half-yearly examinations. The Central Examination Committee will consist of one judge of the Sudder Court, who shall be president thereof, and of one member of the Board of Revenue, both nominated by Government; also the registrar of the Sudder Court, the secretary to the Board of Revenue, and such other members as the Government from time to time may appoint; a secretary to the Committee will be nominated by Government.

VII. *Duty of the Central Examination Committee.*—It shall be the duty of the Central Examination Committee to fix on every occasion the half-yearly examination days, which shall be the same for every division. But, subject to the direction of the Government, the station at which the examination is to be held shall be left to the determination of the Commissioner. It shall be the duty of the same committee to prepare beforehand for each examination sets of questions, to be put to the assistants under examination, a sufficient number of copies of each of which sets shall be forwarded to each Commissioner in a sealed packet, not to be opened until the moment of examination. The Central Examination Committee from time to time shall lay down such rules as may appear to them best for the guidance of the Divisional Committees, in order to ensure a fair and uniform method of fixing the degree of attainment upon each point of examination which the several assistants examined may reach.

VIII. *Divisional Examination Committees.*—At the station in each division where the examination is to be held, the Commissioner of the division shall constitute on each occasion a committee consisting of public officers, to be called the Divisional Examination Committee, whereof he shall be president, and the judge of the station, if not absent on leave, shall be a member.

IX. *Duty of the Divisional Examination Committees, and Reports of the Examinations.*—The examinations shall be conducted by the Divisional Examination Committees, who, after due deliberation, in respect of each assistant examined, will record the result, stating their opinion as to whether the standard of qualification has been attained or not, which result, in case of difference of opinion, will be determined by a majority, and shall deliver the record to the Commissioner. The Commissioner shall transmit the record to the Central Examination Committee, with his own report, wherein he shall state his agreement or disagreement with the Divisional Committee in each case. The Commissioner will be responsible for the fairness, impartiality, and proper strictness of the examination. The written answers of the assistants, and the other papers written by them either in the vernaculars or in English, shall be forwarded with the record. The Central Examination Committee, after taking all the reports into consideration, and perusing any of the examination papers that it may seem to them proper to peruse, shall report to Government the names of such assistants as, in their opinion, have proved their qualifications according to one or other of the standards in force, noticing especially, in the order of their merit, any assistants who, with reference to the length of their residence in India, may have passed with great distinction.

X. *Principal Object of the First Standard.*—The principal object of the first standard of examination shall be to test the proficiency, for practical purposes, of the assistant, in the vernacular language of his district. For this purpose, at least, three papers which he has never seen before, taken from official records very much at hazard, and written by different persons in a plain running hand, must be read aloud by the assistant correctly, and without great difficulty; and after being read aloud, their contents must be correctly explained by him in English. An English judgment, or other official paper, to be furnished by the Central Committee, must be translated by him into the vernacular without assistance. The translation must be substantially correct in meaning, and intelligible to a native; tolerably correct in grammar and spelling, and free from any very bad errors of idiom. He must dictate off-hand, with some fluency, the translation into the vernacular of an English report, or other official paper, also to be furnished by the Central Committee, whereof the translation will be written down exactly as dictated. The dictated paper must in like manner be intelligible and substantially correct. He must then be tested in conversation with two or three natives, in such manner, and to such extent as shall suffice to satisfy the Committee as to the degree of his power of understanding natives of different classes, and of making himself understood by them, both in common conversation and in the usual course of cutcherry business. An assistant must pass successfully through every step of this branch of the examination, in order to qualify according to the first standard.

XI. *Second Object of the First Standard.*—The next object of the first standard of qualification shall be to test the assistant's general acquaintance with the leading principles of the systems of revenue administration and criminal justice, and especially with so much of the laws and rules of procedure as it is necessary for an officer to know, in order to exercise properly an assistant's special powers in both departments. For this purpose, a revenue and a judicial set of questions shall be furnished by the Central Committee. These questions should be so framed as not to involve points of difficulty or rare occurrence, and to show rather the possession or the want of a general and intelligent acquaintance with the subjects of examination, and the fundamental laws applicable thereto, than of a knowledge of a string of points of detail, and dates of orders, which may be soon learned for the occasion, and are generally as soon forgotten again. These questions must be all answered without book.

XII. *Third Object of the First Standard.*—The next object of the first standard of examination shall be to test the power which the assistant may have acquired to deal with conflicting arguments and evidence, in actual cases. For this purpose, two decided cases, with the final proceeding in each withdrawn, which the assistant has never before seen, one from the Collector's and one from the Magistrate's office, of the nature of cases made over to assistants with special powers, shall be given to the assistant. The papers may be read over to him by a native officer, and the explanation of any difficult word or phrase may be asked for and given in the vernacular, the circumstance being on each occasion noted. The assistant may now refer to all his books, and may take his notes as the case is read over. At the conclusion of each case, he must write in English a brief but precise description of the case, and a decision upon the question or questions at issue, with a sufficient statement of the grounds on which it is founded.

XIII. *Fourth Object of the First Standard.*—The last object of the first standard of examination shall be, to ascertain how the assistant has been employed, and how he has done his duty at his station. For this purpose, the Collector and the Magistrate under whom he has been employed, shall furnish the Committee with a report upon these points. It shall be the duty of such officers, who may have an assistant without special powers under them, to make over to him frequently cases for report which are beyond his competency to decide. The reports shall be written in English, on one side of a sheet of paper, and after the case is decided, the officer who decides it shall note, on the other side of the sheet, his remarks upon the report. These reports, with the notes thereon, shall be submitted to the Divisional Examination Committee. Such officers shall also require their assistants to make English minutes of the cases given to them for decision, which minutes also shall be submitted to the same Committee; but these reports and minutes need not be sent up to the Central Examination Committee. The opinion formed of them by the Divisional Committee, however, shall be entered in the record submitted to the Central Committee.

XIV. *Provision for enabling all to acquire Bengallee.*—Assistants who have not passed according to the first standard in Bengallee will not be returned in a Hindoostanee district more than a year. Assistants in Orissa may pass according to either standard, either in Bengallee, or in the cognate Oorya language, at their option.

XV. *Second Standard.*—The second standard of examination shall be similar in its nature to the first, but more difficult in degree. In the vernacular portion of it, the reading of a common office running hand must be tolerably ready; the papers selected as tests should be of a more difficult description of office papers; the translation, dictation, and conversation should be fluent, generally correct, and readily intelligible, and the assistant should be tested in his power of explaining himself clearly, and with sufficient propriety, in the vernacular, in an argument or topic of some difficulty, such as may occur in official business. In this examination it will be necessary for the assistant to pass in both vernacular languages, Bengallee and Hindoostanee. The test here described shall be strictly enforced in respect of the language of the district where the assistant is stationed at the time of examination. But an allowance will be made for want of familiarity in the other language. In that other language, however, the first standard of examination must be decidedly surpassed at this examination. The questions of law and practice should be selected from the whole field of the duties of a Magistrate and Collector, but they shall be arranged in two classes, one class comprehending important and leading points, in answering which no books shall be allowed; and the other class, comprehending less general, and less common points in answering which assistance of books shall be allowed. No guides, digests or summaries, however, shall be permitted to be used, the assistant being confined to the original laws, circular orders and constructions. The object of this class of questions is to test the assistant's knowledge of where readily to find the law or practice on the less common points that arise in business. In preparing these questions, nice and difficult points should be avoided, the object being not to evoke subtlety or ingenuity, but only to ascertain whether the acquisitions and capacity of the person examined are adequate to enable him to perform fitly the important functions of an Indian Magistrate and Collector, or not. The trial cases should

Appendix, No. 3.

should be selected from those possessing enough of complexity to test the assistant's ability to master all ordinary difficulties, and especially to test his power of minute attention to, and just appreciation of evidence.

XVI. *Object of the Second Standard.*—It shall be the object to make this second standard such that a man who has passed a college examination, being of ordinary understanding and capability, who fairly applies himself with proper diligence to his business, and makes it his daily object to familiarise himself with the languages of the country, may pass it after two or three years of mofussil experience.

Appendix, No. 4.

Appendix, No. 4.

PAPER put in by Captain *John Ouchterlony*, 15 June 1858.

LETTER from *H. Williams*, Esq., to the Rev. *F. A. Dawson.*

My dear Mr. Dawson, Jubulpore, 3 May 1858.

YOUR very kind letter of the 19th March only reached me last evening, and as the mail leaves to day at 4 P.M. I have but a very short time indeed to answer the questions therein put regarding the resources of these territories. The principal articles of export are cotton, lac, hemp, wheat, gums, iron, and gall-nuts.

Cotton.—About 100,000 maunds leave this annually for Mirzapore, where it is again sold to the agents of Calcutta houses. I have never dealt in the articles myself, as the cotton grown in these territories fetch a lesser figure in the Calcutta market than that grown about Calpee, Bandah, &c. Not that the cotton itself is in any way inferior, but because the natives never take the trouble to pick the cotton from the tree, but they allow it to ripen and fall to the ground; and when they see a good deal lying there, they sweep it up into bags, and send it into this for sale. In ordinary seasons cotton sells for about six and seven rupees per maund of 80 lbs; at present it is very high, the rebellion having put a stop to the cultivation.

3,571 tons.

Stick-lac.—I do not know the exact quantity of this article collected annually in these territories, but it must be very large. As the Mirzapore lac-dye makers draw nearly the whole of their supplies from this and Raepore, on the Nagpore territories, I should say that 50,000 maunds was a low estimate of the export.

1,780 tons.

Hemp.—Along the foot of the ghats large quantities of hemp is grown annually, and the cultivation could be carried to any extent. In 1849 Messrs. Thompson & Co, the rope-makers in Calcutta, wrote to me to purchase and send them a supply. At that period I had difficulty in getting 500 maunds. Since then I have extended the cultivation, and last year I sent 14,000 maunds* to Calcutta for sale. With sufficient capital, and enterprising agents, hemp sufficient for the whole consumption of England could be grown within the Saugor and Nerbudda territories. Dr. Royle, Messrs. Harton & Co., Thompson & Co., and others, pronounce the hemp equal to the best Russian. Some bales I took to England with me in 1853 were sold by Messrs. Remie & Co., London brokers, for, I think, 28 *l.* or 30 *l.* per ton. The principal thing required to make the hemp trade a large and profitable one, is capital to advance the growers, and good European assistants to sort the hemp. Mr. Wilkes, the broker of Liverpool, told me that the low figure all Indian fibres fetched in the English market was in consequence of the careless way in which the bales were put up, long and short fibres being mixed indiscriminately; and that he was certain if only the same care was taken in sorting and picking the hemp as that adopted by the Russian Government, that the hemp grown in these territories would realise an equal value in the English market. If supplied with a capital of 50,000 *l.* I would undertake, in three years, to turn a dividend of 25 per cent. upon it, by the cultivation of export of hemp alone. My present agents in Calcutta sell the hemp to the European ropemakers there at eight and nine rupees per maund. Having devoted 10 years to the cultivation, cleaning, and exporting of hemp, this is the only branch of business that I should like to connect myself in any way with.

* (of 80 lbs.) = 500 tons.

Wheat.—What can I say about this? At this present moment the finest wheat in the world, worth in Mark-lane 60 *s.* per quarter, is selling here at six "coorahs," or 120 lbs. for a rupee. Why should a man work, say the natives, when he can earn sufficient in 10 days to feed him and his family for a month. Unfortunately, carriage is not procurable to export grain in any quantities; and, until railways are made, grains of all kinds must remain cheap.

About 1⅓ bushels for 2 *s.*, or say 12 *s.* per quarter.

Gums, Wax, Gall-nuts, &c., are all procurable in large profusion throughout the length and breadth of the land, for collecting.

Iron.—It would require a month to draw up a memo. only of the mineral resources of these territories. Iron, coal, copper, plumbago, and emery are known to exist in abundance, but only iron has been worked to any extent by the natives. There are about 1,200 smelting furnaces at work round Jubulpore; but as the furnaces are small, and worked by hand-bellows, the quantity turned out is only sufficient for the consumption of the country within a radius of, say, 50 miles. The iron itself is considered by competent judges equal to the best Swedish iron. Messrs. Hunt & Elmsley applied to Government for a lease of the iron mines near here, with the intention of erecting large foundries for the casting of chairs for the railroads, but the rebellion appears to have put a stop to this also, as I have not heard anything of it of late. I am just now sending specimens of the different iron ores to Mr. Graham, of the railway department at Nassick. Reports by different officers during the last 20 years on the iron and coal mines in these territories, are lying in the commissioner's office here. The best plan to make the resources of these territories available would, in the first instance, be to raise a capital by forming a small company. By sending out three steady men to commence first with the hemp, one a secretary, bookkeeper and manager, one on, say, a salary of 20 *l.* per month, a sorter of hemp, who would continually superintend the sorting, picking, and packing of the hemp, and one man to proceed to the different districts during the season, to make advances, collect the hemp, and send it into Jubulpore. These two latter men ought to have salaries of, say, 100 rupees each per mensem. This would make the expenditure 500 *l.* per annum for European supervision, and about 500 *l.* more would be required for native establishment, tentage, &c. First year they would get 500 tons, and every year it ought to double in quantity, and improve in quality, if men of persevering and business habits were sent out, and men who had been brought up in ropewalks and hemp-brokers' establishments. Europeans could carry on any description of business in Central India, but only as overseers of natives. Europeans cannot work in the sun, at any manual labour, for six months in the year; and they would do a great deal more good by superintending what the native does, and trying to engraft into the native system any European experience they may bring out with them, than in attempting to do anything in the way of manual labour themselves.

Until railroads are made from this to Bombay, all produce must find its way to England *viâ* Calcutta, as the land carriage *viâ* Bombay is too expensive. But when the railway to the latter-mentioned place is completed, of course Bombay will be the outlet for all the produce of these territories, it being so much nearer England itself, and the dangers of the river Hooghly navigation being avoided. Mr. Graham, of Nassick, writes me that the contracts for the railway to Jubulpore are out, so that it is more than possible that in three or four years we shall have a line running from Bombay to this, as the ground from here to Candeish, they say, is a dead level, with little or no engineering difficulties.

You must kindly excuse this hurried epistle. I would have drawn out a report with care had ample time been allowed, but to meet your wishes this cannot be done, so I send it rough, and trust it will answer the purpose for which it is intended.

Believe me, &c.

(signed) *H. Williams.*

Appendix, No. 5.

PAPERS put in by Captain *John Ouchterlony*.

Appendix, No. 5.

STATISTICAL MEMOIR of a SURVEY of the NEILGHERRY MOUNTAINS.

Soil.

THE soil of these mountains,* speaking of course chiefly of the plateau, is for the most part exceedingly rich and productive, a circumstance for which the observer would not be prepared on witnessing the granitic or sienitic base upon which it rests, since it is usually seen that granitic districts are bleak and barren, owing to the resistance to decomposition offered by the silicious materials of which it consists.

This advantageous contrariety may perhaps be accounted for by referring the formation of so much rich soil to the existence of the numerous dykes of rock whose decomposition is more favourable to its production, especially those of trap and hornblende, the decomposed particles of which, mixing with the quartzose and clayey products of the granite, result in the formation of a soil peculiarly adapted for cultivation.

The great mass of the hills also has evidently been under grass, and undisturbed by the plough or the mamotie † for ages, and as the frosts which occur at the close and beginning of the year in most parts kill the grass down to the roots, all this decomposed vegetable matter, washed in by the succeeding rains and mixing with the subsoil, continues and has continued season after season to increase its richness, and cause it to penetrate further and further into the poorer sub-soil, until the extraordinary depth of rich black mould, which is often observed in the cuttings of a new road, is produced.

The finest patches of land are naturally found on the lower slopes or second steppes, in situations where the conformation of the country has favoured the accumulation of soil washed from the hills above, and especially where forests have aided to retain that soil from further denudation by their roots, and have for ages nourished it by their leaves. The chief agricultural tribe on the hills, the burghers, seem well aware of this, and the consequence is, that in all parts where they cultivate, the face of the country is entirely clear of wood.

Want of lime.

The chief defect of the soil of this district is the absence of lime, but a very minute quantity of which enters into the composition of the greater part of that under general cultivation at the present time, and as it is too costly an article to be brought up from the plains to be applied as a dressing to the land, considerable deterioration must be going on in its productive capacity. I have remarked that the finest fields are those which are situated near any considerable mass of hornblende rock, and hence it is to be inferred that the superiority of the soil is due to the lime which it receives from its decomposition. Specimens of this hornblende reduced to powder and digested in dilute nitric acid, give a copious precipitate with oxalate of ammonia, showing upon estimate (for I had not the means of collecting and weighing the precipitate) a proportion of at least 8 to 9 per cent. of lime entering into the composition of the rock.

Drained swamps.

The extensive and numerous swamps which occur on the Neilgherries also, when drained, furnish most valuable soil, either for cultivation *per se*, or for top dressing for poor land. But in this latter form it is never used by the hill cultivators, who are very backward in the knowledge of the uses and properties of particular manures, as will be treated of under an ensuing head, viz., "Modes of Cultivation."

Natural aspect.

The Neilgherry mountains constitute one of those singular features presented in the physical geography of Southern India, of comparatively isolated masses upreared amidst the vast plains which extend over the surface of the country, pointing either to foci or points of ancient volcanic eruption by which they have been formed, or to evidences of the wearing agency which has reduced the surrounding tracts to their present remarkably uniform level state; while mountain masses, forming a core of tougher substance, and of material less prone to decomposition, have resisted the corroding action, and have been thus left in the form of isolated and mural precipices, towering above the surrounding country.

The summit or plateau of these mountains presents a most varied and diversified aspect. Although the land extends over its limits in ceaseless undulations, approaching in no instance to the character of a champagne country, and frequently breaking into lofty ridges and abrupt rocky eminences, it may yet, speaking in general terms, be pronounced smooth and practicable to a degree seldom indeed, I believe in no instance, observed in any of the mountain tracts of equal elevation which occur in the continent of India.

On all sides the descent to the plains is sudden and abrupt, the average fall from the crest to the general level below being about 6,000 feet on all sides, save the north, where the base of the mountains rests upon the elevated land of Wynaad and Mysore, which, standing between 2,000 and 3,000 feet above the level of the sea, form as it were a steppe, by which the main fall towards the sea is broken. From both of these elevated tracts the Neilgherries are separated by a broad and extensive valley, through which the Moyaar river flows, after descending from the hills by a fall at Neddiwuttum, in the north-west angle of the plateau; and the isolation of this mountain territory would be complete but for a singular sharp and precipitous ridge of granite peaks which projects out from the base of a remarkable cone, called Yellamullay, on the western crest of the range, and taking a west-by-north course towards the coast, unites itself with the hills popularly called the "Western Ghauts."

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* The Neilgherries.

† A native hoe.

The Koondahs.

In the south-west angle of the Neilgherries a singular mass of mountains rises, called the Koondahs, which though in point of fact a portion of the great hilly region, are so completely separated from the "Neilgherries proper" that they merit the distinct appellation they have received. Spurs from this secondary range run to the southward to a considerable extent, almost as far as the Ponany river, and it is in the innumerable vallies bounded by these ridges that the magnificent virgin (forest) land is found, of which I made mention in a former memoir, and which, as being eminently well suited for the purposes of coffee and other cultivation, will, I feel convinced, shortly be the means of rendering this district one of the most valuable and important under the Presidency.

Remarkable scarcity of forest.

The Neilgherries, or rather the plateau formed by their summits, are by no means densely wooded, the forests occurring in distinct and singularly isolated patches, in hollows, on slopes, and sometimes on the very apex of a lofty hill, becoming luxuriant and extensive only when they approach the crests of the mountains, and run along the vallies into the plains below. This absence of forest in a region in which from its position between the tropics, from the abundance of moisture, and from the great depth and richness of the soil, the utmost luxuriance in this respect would be looked for, is very remarkable, and leads me to conclude that vast tracts of primeval forest land must have been cleared to make room for cultivation at no very distant period.

This belief is strengthened by the fact, that in all parts of the hills, which are exclusively the resort of Todars, such as the elevated land to the north and west of the Pykara river, the whole of the Koondahs, the north-eastern portion of the plateau, called Kodanaad, and other tracts where no cultivation is at present carried on, extensive forests are found.

Dodabetta range.

The principal internal range on the Neilgherries is a lofty mass, situated in the heart of the district, and running north-west and south-east, the great mountain called "Dodabetta," the highest on the plateau (being 8,610 feet above the level of the sea) being the apex, and from it all the minor ridges and spurs which form the undulating land of the Neilgherries may be said to take their rise, with the exception of the "Koondahs" which have a distinct origin, and of a singular elevated tract forming the north-west portion of the hills, which is distinctly connected with the Koondahs by a narrow ridge under Makoorty Peak. From the Dodabetta range to the eastern foot of the Koondahs the land falls continuously, when these mountains, abruptly rising, obtain an elevation very little below that of Dodabetta itself.

Atmosphere and climate.

Coldest months, December and January.
Hottest months, April and May.

Owing to the great elevation at which the inhabited summit of the Neilgherries stands, and the consequent rarefaction of its atmosphere, aided doubtless in some degree by the beneficial influence of the luxuriant vegetation which clothes them, the district, although distant only 11 degrees from the equator, enjoys a climate now famed for its great salubrity and remarkable evenness in its seasons, with a temperature which falls in the coldest month of the year to the freezing point, and seldom in the hottest reaches 75° in the shade. In stating this, I of course refer to the general circumstances of temperature which prevail, for seasons have of course occurred during which, from particular atmospheric causes, the mercury may have risen occasionally above this estimate. The coldest season is during the months of December and January, and the hottest about April and May, though this latter season is not so certain, depending mainly upon the character and time of setting in of the rainy or south-west monsoon. The hottest period of the day is about two o'clock or 2h. 40m. p.m., and the extreme range of temperature from sunrise to that time averages most commonly 16° throughout the year. The variation is of course the greatest at the time of frost, viz., January and December, when the extreme radiation which goes on during clear nights produces excessive cold towards sunrise, after which the sun's rays shining, with great fierceness through the rarefied atmosphere, speedily restore heat to the earth, and the temperature of the air rises in proportion. Similar causes, reversed in their action, necessarily produce sudden and great cold after sunset, rendering the climate at this season (and indeed at all seasons, more or less) one in which the most healthy residents, and especially those who have recently come under its influence, stand in need of caution in their mode of encountering its vicissitudes. For the reasons alluded to, I would venture to remark that very early and very late parades, according to the practice of the plains, will be found injurious to European troops located on these hills, and especially to those men whose constitutions have been worn by long residence in a tropical climate.

Ootacamund, 7,300 feet above the level of the sea.

Choice for invalids of three distinct set-

The chief station, Ootacamund, from its superior elevation (7,300 feet above the level of the sea) is more exposed to this unfavourable action than the two minor stations, Coonoor and Kotergherry, which are each 6,000 feet above the level of the sea; although these latter are by no means exempt from the same influence, especially during the cold season, as will be seen by the tables appended to this memoir. A very great advantage enjoyed by the Neilgherries as a sanitarium exists in the means which are afforded to an invalid to select tlements, enjoying each a different climate.

select the peculiar kind of climate which best suits the malady under which he is suffering; by the existence of three settlements, each under medical charge, situated in different parts of the range, each having a different aspect, and each a climate peculiar to itself; that of Ootacamund being the coldest, but most damp, Khotergherry the next in the scale, and that of Coonoor the warmest. Thus an invalid whose habits or state of constitution render the change from the torrid heat of the plains to the penetrating cold of Ootacamund too great and sudden, has the opportunity and option of acclimatising himself at either of the minor stations before exposing himself to the vicissitudes of climate which await him on the highest level.

The Valley of Jakatalla well sheltered.

Enjoys a very even and temperate climate.

The climate of the Jakatalla valley, which I had occasion to recommend to the Most Noble the Marquis of Tweeddale for the site of the projected barracks for a European regiment of infantry, and which has, I believe, been approved of by Government, will, I think, be found a happy medium between those of the chief and lesser stations. It is well sheltered from the dry, cutting northerly winds, which cause so much sickness in Ootacamund during the months of March and April, by the high Dodabetta range which bounds the valley to the northward; and the rains of the south-west monsoon, though they of course visit this part of the hills, are by no means so incessant or accompanied by so much driving mist as is experienced during the same season at Ootacamund. This monsoon (the south-west) sets in on the hills during the month of June, and is ushered in on the western side, including Ootacamund, by heavy rain and violent gales of wind. The station of Coonoor gets the monsoon at the same time, but with less rigour, owing to the clouds which come charged with rain from the westward being attracted to the earth, and induced to discharge their contents by the opposition offered to their flight by the high spurs which run out from the Dodabetta range, and interpose between the west and Coonoor.

Kotergherry sheltered and healthy.

The Kotergherry station is also very favourably protected from the violence of the south-west monsoon by the Dodabetta range itself, which stands out like a huge wall to screen it. The average fall of rain, the chief part of which occurs on the hills during this monsoon, cannot be called excessive, especially when compared with the visitations in this respect experienced in the neighbouring province of Malabar.

The constant shifting of abode from spot to spot which the duty of conducting a survey necessarily entails, has prevented me from keeping a register of the actual amount which has fallen in every month of the year, except in 1847; but from such observations as have been made when opportunity offered, I am led to believe that about 60 inches is a fair quantity to assign as the average fall of rain throughout one year at Ootacamund, 50 inches at Kotergherry, and 55 inches at Coonoor. The north-east monsoon sets in generally in the beginning of October, and is often accompanied by rain, more or less, all over the hills, but especially on the east side and at Kotergherry, which, from its position, is exposed directly to its force. The month of December is generally very stormy, and often fatal to a large extent to the lives of the hill cattle, and to the bullocks and other beasts of burthen employed to bring produce from the plains. The cold easterly wind blowing through the light rain which is continually falling, and striking upon the wetted skins of the animals, produces a degree of intense cold, which soon destroys them, and by these means serious inroads are yearly made upon the herds of the hill inhabitants, by whom their loss is not readily replaced. Annexed to this memoir are various tables extracted from the Meteorological Register kept in the Survey Office at Ootacamund and Kotergherry, which will show all particulars regarding the changes of temperature, the fluctuations and oscillations of the mercury in the barometer, as shown at the hours of maximum and minimum pressure (9 h. 50 m. a. m. and 4 p. m.) temperature of wet bulb, direction of the wind, aspect of the sky, &c.

Hurricanes very rare on the Neilgherries.

The Neilgherries are occasionally, but by no means frequently, visited by violent storms or hurricanes, so rarely indeed, as to excite surprise and speculation as to the cause of this exemption, when its isolated and exposed situation in the Peninsula is considered. Upon this and other points of interest connected with the meteorology of these hills, much light will doubtless be thrown by the observations now regularly conducted in an observatory recently erected on Dodabetta, under the auspices of Mr. Taylor, the Honourable Company's astronomer at Madras, in which an instrument for measuring the force of the wind, and other valuable adjuncts to a meteorological observatory, have been placed.

During the prevalence of the south-west monsoon the atmosphere is almost continuously charged, more or less, with dense mist, enveloping chiefly the mountain tops, but descending into the inhabited vallies as the warmth of the day passes, and spreading in heavy and impalpable fog in all directions. When not under this influence, the atmosphere overhanging these mountains is brilliantly clear and cloudless, and especially so on the eastern side of the range.

Appendix, No. 5.

TABLE showing the AVERAGE TEMPERATURE, &c., throughout the Year, on the Neilgherry Hills.

	MONTH.	MEAN TEMPERATURE.			* Mean Range of the Thermometer.	Rain in Inches.	REMARKS.
		At Sunrise.	At 2 h. 40 m. P. M.	At Sunset.	Sunrise to Sunset.		
		Deg.	*Deg.*	*Deg.*	*Deg.*		
At OOTACAMUND, 7,300 feet above the level of the sea.	January -	42	63	58	21	1	Cold north-easterly winds prevail.
	February -	44	65	60	21	1	Ditto - ditto - ditto.
	March - -	49	68	63	19	2	Ditto and dry ditto - ditto.
	April - -	54	68	63	14	5	And dry - ditto - ditto.
	May - -	54	68	63	14	6	Commences to vary to south-west.
	June - -	53	64	59	10	8	South-west monsoon sets in; strong wind.
	July - -	52	62	57	10	7	South-west and west winds blow.
	August - -	52	62	57	10	6	Wind begins to vary to west and north-west.
	September -	52	62	56	10	7	Wind north-west, and, towards end, north-east.
	October -	51	62	56	10	9	North-east and easterly winds prevail.
	November -	49	61	55	12	5	North-east winds blow, fresh, clear.
	December -	45	60	55	15	3	North-east winds blow, often violently.
				TOTAL - - -		60	Inches of rain.
At KOTERGHERRY, 6,100 feet above the level of the sea.	January -	51·5	66	60	15	2	North-east and north-west winds prevail.
	February -	52·5	67	63	15	3	North-east and north-west winds; rain very uncertain.
	March - -	54	67	63	13	6	Winds variable, north-east to south-east.
	April - -	56	68	64	12	10	Winds variable, north-east to east and south-east; rain uncertain.
	May - -	56·5	68	64	12	2	Winds from north-east to north-west and west.
	June - -	58	69	65	11	2	Winds from north-west to south-west; rain variable.
	July - -	60	70	65	10	4	South-west monsoon winds, but light and variable.
	August - -	60	71	65	11	2	North-west winds prevail in this month.
	September -	59	69	64	10	2	North-west winds, veering to west.
	October -	56	68	63·5	12	10	North-west winds, light and variable.
	November -	54	67	61	13	2	North-east winds, veering to north-west.
	December -	52	66	60	14	5	Wind generally from the north, gusty.
				TOTAL - - -		50	Inches of rain.

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* From want of a maximum and minimum thermometer, I have not been able to record the extreme range of the thermometer during the 24 hours.

The

Productions.

The resources of this highly-favoured region are as diversified and valuable as they appear easy of attainment, and comparatively inexhaustible. With a climate and soil such as have been described, great productive powers in the vegetable kingdom, and a proportionately high developement of them, would naturally be looked for. That the latter is wanting to a lamentable degree is to be accounted for by the wretched system of husbandry pursued by the agricultural tribes who have settled upon the Neilgherries, as also possibly in some degree by the absence of that encouragement which would be produced by the institution of some channel through which the products of their industry might reach a ready, certain, and ever-demanding market.

Wheat.

I commence the long list of productions which the Neilgherries are capable of supplying with wheat, as one of the most important, and as one, moreover, which the Honourable Court of Directors appear at the present time to be much interested in collecting data regarding, from all districts in India capable of producing it.

In making up the returns of the gross quantities of grains of all sorts produced in the district, I have taken the totals of each from the Seebundy accounts of 1847, or fusly 1257, as rendered orally in the cutcherry. From these it appears that in 1847, 70 "vullums" of land were cultivated for wheat, each vullum producing on the average 400 "kolagums." This "kolagum," which is a measure peculiar to the hill tribes, contains 226 cubic inches, and hence the quantity produced was 3,000 bushels, or 375 quarters. The weight of a kolagum of average wheat (husked) is, I find, 7 lbs., hence the bushel of Neilgherry wheat weighs 68$\frac{3}{5}$ lbs., or a quarter 548$\frac{4}{5}$ lbs., avoirdupois. A "vullum" of land is equivalent to 2 cawnies, 21 grounds, and 864 square feet. Hence the total quantity of land cultivated for wheat at the present time is 202 cawnies, or 267 acres, and the produce is 14$\frac{1}{10}$ bushels per cawny, or 11$\frac{1}{8}$ bushels per acre. The return in moderately good land cultivated for wheat is 40 to 1, or 40 bushels reaped for 1 bushel sown.

That the quantity of wheat at present produced on the Neilgherries could be very greatly increased there cannot be a doubt, provided a better system of husbandry were introduced, and better seed imported from Europe and distributed amongst the agricultural tribes; and as recent distressing circumstances in Great Britain appear to have directed the attention of the Home Government to colonies which are thought capable of producing this grain in sufficient quantity to assist in relieving the mother country from her present hazardous position of dependence upon foreign States for her supply, I shall venture to offer a few further remarks, before closing my notice of this important item in the chapter of natural productions.

Neilgherries and Koondahs well suited for the growth of wheat.

The whole of this hill district, including the Koondah mountains, is eminently well suited in point both of soil and climate for the production of wheat, but as the last-mentioned tract is not yet surveyed, it must at present be lost sight of, although I feel confident it will be found on examination to furnish a very important addition to the gross amount of land estimated as suitable for the cultivation treated of, and which at present lies totally waste and useless.

200,000 acres of land lying waste on the Neilgherries, exclusive of the Koondahs.

The quantity of land thus lost to the State I calculate to amount to no less than 200,000 acres, as is shown by the following statement:—

	Square Acres.	Square Acres.
Total content of the geographical surface of the Neilgherries - -		268,494
Of this quantity there are now under cultivation, including lands lying fallow - - - - - - - - -	31,434	
Pasturage to be reserved for the cattle of the Todars at the exaggerated rate of 200 acres per 100 head (less than 40 per 100 being allowed by the Revenue authorities in the calculation for assessment), for an average of 2,000 head of buffaloes will be - - - - - - - - -	4,000	
Pasturage to be reserved for the cattle of the burghers, consisting of buffaloes and bullocks, averaging 8,000 head, at 100 acres per 100 head - - - - - - - - -	8,000	
Land occupied by the cantonment of Ootacamund, future barracks, roads, &c. - - - - - - - - -	6,000	
Village sites, sacred groves, &c. - - - - - - -	2,060	
Tracts of rocky ground, morasses, and other land not immediately fit for cultivation (although these might well be considered as compensated by the gain of surface introduced through the undulations of the land) - - - -	17,000	
Deduct - - - - - - - - -		68,494
And there is a remainder of - - - -		200,000

acres entirely unoccupied and waste, being either covered with forest, or lying under grass not required for pasturage.

Under a better system of cultivation, also, it would not be necessary to suffer so large a proportion of the Burghers' cultivated land to lie fallow at one time as is at present in that condition, amounting, in round numbers, to 17,000 acres, out of a total of 31,500 acres of cleared and arable land.

Of

Appendix, No. 5.

Of the forest land every acre is of course peculiarly well suited for wheat, and, being virgin soil, it should produce, under proper management, large crops of the very finest grain.

The same may be said of swamps, when drained; but as potatoes are found to thrive well in the soil which their drainage produces, such land in a farm would naturally be reserved for stock produce, and an allowance has therefore been made for this in the estimate.

Making, however, exaggerated deductions on all accounts, there yet remain no less than 200,000 acres of unallotted and unemployed land, of which, at the very lowest estimate, one-half, or 100,000 acres, may be taken as fit for the production of wheat, under a proper system of husbandry, allowing a sufficiency of well prepared manure, an occasional dressing of lime, and exercising proper judgment in allowing it to lie fallow, or changing crops, according to its condition and composition of soil.

It has been already stated that the Burghers obtain from their wheat lands a quantity of grain equivalent to 11 ⅜ bushels per acre, but as the depth to which they plough their fields never exceeds seven inches, and for the most part is barely six, and as they give them only the most meagre allowance of sun-dried and exhausted manure, never exceeding (as far as I have been able to ascertain by counting the baskets brought, and measuring spaces of land dressed with it) half a ton per acre, and this not ploughed well into the ground, but merely scraped into the surface furrows, and as they never supply the land with what from the composition of the soil it so much needs, viz. lime, it may be safely assumed that under a proper system of tillage this amount of produce could be at least trebled, or at a very low estimate four quarters of wheat could be obtained from one acre.

I may therefore safely affirm that this district is capable of furnishing for export to Europe from 400,000 to 500,000 quarters of wheat of a quality far superior to that which is at present raised, and at a cost sufficiently low (the distance to the nearest shipping port being only 110 miles, 36 miles of which are performed by water) to admit of large profits being realised by the growers, even when the price in England is so low as 65 *s.* a quarter.

The following is an estimate of the cost to the Burghers of the cultivation of wheat per English acre, ascertained with as much exactness as circumstances and the deceitful character of the people, who seldom adhere to the truth in any of their statements, have admitted of:—

Estimate of the expense of cultivation of wheat to the burghers.

ESTIMATE.

	Rs.	*a.*	*p.*
Ploughing: five ploughs, with two bullocks and one driver, in three days' plough, one vullum of land (= 3 ¾ acres). The keep of the bullocks costs nothing, as they get nothing but grazing; the expense is therefore the hire of 15 men per vullum, or four per acre, at two annas - - - - - - - - - -	–	8	–
Collecting weeds and grass, and burning them, two boys at one anna	–	2	–
Bringing and spreading five baskets of manure, one man at two annas - - - - - - - - - - - -	–	2	–
Sowing seed and turning the soil, five ploughs to one vullum or six men, which is one and a half men per acre, at two annas - -	–	3	–
Seed wheat, two and two-thirds kolagums, at two annas and eight pice per kolagum - - - - - - - - - -	–	7	–
Repairing fences and clearing channels to carry off rain, one man -	–	2	–
Reaping and thrashing: the expense of the first is covered by the straw, and the last costs nothing, as it is performed by the bullocks, which are driven round and round a post to tread out the grain.			
Assessment, at the highest rate - - - - - - - -	–	14	9
Cost per Acre - - - *Rs.*	3	–	9

RETURN.

	Rs.	*a.*	*p.*
105 kolagums of grain, which are sold at two annas eight pice - -	17	8	–
Deduct cost of cultivation - - - - - -	3	–	–
Profit to the cultivator, per acre - - - *Rs.*	14	8	–

It is true that out of this we must take the "goodoo," or tribute which they give to the Todars, and which may be considered in the light of rent for the land; but this is not much; they profess to give two-fifths, but I have reason to believe, both from the statements of the Todars and of the Burghers themselves, that what they actually make over as "goodoo" is not above one-half of this proportion, if even so much, especially in the item of wheat, which is so profitable to them.

It may not be considered out of place to introduce here a statement of the expense of keeping horses and cattle, and of carrying on farming operations generally on the Neilgherries.

Horses

Plough horses.

Horses cast from the artillery and cavalry, when castrated, might answer very well for the plough; they may be purchased at from 100 to 200 rupees.

	Rs.	*a.*	*p.*
Two horses would require one horsekeeper, at seven rupees per mensem - - - - - - - - - - - - -	7	-	-
And (until the farm yielded hay) two grass cutters, at four rupees per mensem - - - - - - - - - - - - -	8	-	-
Food: gram, two seers per day for each horse 4 × 30 = 120 seers -	7	-	-
barley, two - ditto - ditto 4 × 30 = 120 „ -	4	-	-
Shoeing, one rupee each per mensem - - - - - - -	2	-	-
Halters, cumblies, salt, medicines, &c., one rupee per mensem -	2	-	-
Total per mensem - - - *Rs.*	30	-	-

which is 18 *l.* per annum per horse.

Spade husbandry.

A cooly can dig in one working day in new meadow ground about 25 to 30 square yards, one foot deep, his pay being two annas; children employed to weed receive one anna per day; native farm servants, gardeners, &c., receive five rupees a month; herdsmen for cows, goats, &c., four rupees a month; keepers for bullocks, employed to bring supplies or carry produce to the coast or to market, receive five rupees a month, at the rate of one keeper to every five head of cattle; a good carpenter receives half a rupee a day; a good bricklayer receives half a rupee a day.

Lime.

Lime in an unslaked, caustic state, can be delivered on a farm on an average of distance from the high roads, at the rate of 12 annas per bullock-load of about two bushels.

Bones.

Bones could be obtained from the low country for the cost of collecting in the villages and conveying up the passes.

Barley.

Next in importance in the class of productions is barley, the quantity of which raised during the past year far surpasses that of wheat. In 1847 it amounted to 1,419 vullums, each vullum producing on an average 400 kolagums, making a total of 60,383 bushels, or 7,548 quarters, taking the imperial bushel, as before, at 2,218 cubic inches, and the kolagum, by my measurement, at 226 cubic inches. The barley grown on the Neilgherries is divided into two kinds by the Burghers, the first and best being "sheemey ganjee," or English barley, so called from its being the degenerate produce of English seed, given to the head burghers many years ago by, I believe, Mr. Sullivan, when Collector of this district; and the other, "malley ganjee," or hill barley, which they describe as indigenous to the hills. The quality of both sorts is very poor, nor is this much to be wondered at when their defective mode of cultivation is witnessed, and the great deterioration of the grain which naturally results from the constant employment of the same seed in the same land over and over again, without any change or any attempt at the introduction of imported or mixed seed. The weight of a kolagum of ordinary barley is 5½ lbs., which gives 54 lbs. for the weight of a bushel, and 432 lbs. for that of a quarter. The return in moderately good ground is 50 per cent. under that of wheat, being only 20 measures of crop for one measure of seed.

The yield per cawny is 14·7 bushels, or per acre, 11·12 bushels; and the total amount of barley cultivation is, in cawnies, 4,109, or, in acres, 5,433.

Beer.

Before quitting the subject of barley, I cannot refrain from adverting to one immediately connected with it, and which I deem of so much importance, that although I am not sanguine in my hopes that Government may be induced by any representation made by me to institute experimental proceedings with a view to test the feasibility of the scheme, I still consider it my duty to place on record in this memoir the results of experiments which I have had favourable opportunities of making, under the impression that a time must sooner or later come when this, amongst many other valuable resources of these hills, will be fully developed and taken advantage of.

Can be made and sold at Bangalore at 2½ annas per quart.

I allude to the subject of fermented malt liquors, which can be made on the Neilgherries with the greatest facility in all the details of the process, and at a cost so trifling as to enable the commissariat to supply the European troops at the three stations more immediately in the vicinity of the hills, viz., Bangalore, Trichinopoly and Cannanore, with both ale and porter, at a rate, calculated on an extreme estimate, not exceeding 10 annas per imperial gallon, delivered to the men from the cask in the canteen, or 2½ annas per quart, equivalent to 3½ *d.* per pot.

Independent of the importance, both in a moral and economic point of view, of supplying to the troops a liquor which, from its goodness and cheapness, will induce the majority to prefer it to ardent spirit, the subject becomes still more entitled to consideration, from the advantages which must result from its successful issue when the projected measure for the permanent location of a regiment of European troops on the Neilgherries shall be carried out; for, as the chief item in the estimate of cost is the carriage from the brewery to the station in the plains, beer will be supplied to those resident on the spot at a greatly diminished rate.

Malt.

A very favourable opportunity will also be offered for bringing the project into practical operation when a regiment is stationed on the hills, because amongst the men many brewers and maltsters by trade will no doubt be found, and by the practical knowledge of these men many difficulties in the details of the process, which experimentalists like myself encounter, will

will be speedily overcome. An inspection of the tables of temperature, given in the Appendix to this Memoir, will at once show that the first part of the process of the manufacture of beer, viz, the conversion of barley into malt, can be carried on here as well as in any part of Great Britain; for although the range of the mercury may appear so great as to endanger the success of the process by causing the germination to proceed too rapidly, this evil can be readily averted by placing the malting floors in buildings with thick stone or even mud walls, covered with thatched roofs elevated considerably, so as to deflect the rays of the sun, and preserve an even and low temperature throughout the day. The temperature found most suitable to malting in England is about 60° to 62°, and this degree of heat could be maintained without excess in malting sheds on these hills throughout at least nine months in the year.

Temperature well suited for malting and fermenting.

Average temperature of the Neigherries, 62°

Quality of barley very inferior.

I must observe, however, that the barley grown here is so poor in quality, so light in the grain, and containing in a given measure so large a proportion of husk in excess of what the same quantity of English barley would produce, that the malt made from it yields in the mash but a very disproportionate quantity of saccharine matter, rendering it necessary to employ raw sugar as an adjunct to produce a wort of sufficient strength. But this, which might elsewhere be considered an objection on the score of expense, is here of easy remedy, since in the immediate vicinity of the Neilgherries, viz., in Mysore, excellent sugar is manufactured in great abundance, and at a rate so low that at this present time, February 1848, it is being sold in the bazar of Ootacamund at *Rs.* 3. 12. per maund of 25 lbs. weight, being equivalent to 33 *s.* per cwt. Formerly, a prejudice existed against the employment of sugar in the manufacture of beer, but as it is now seen that the permission to introduce it into breweries in England, which has been recently granted by the Legislature, is regarded by the public as a signal boon, it must be self-evident that since this important article is, comparatively speaking, indigenous to the spot, cheap, excellent and abundant, and as the climate is in all respects eminently well adapted for carrying on the process of vinous fermentation as well as that of malting, that beer and porter can, under proper management, be produced on the Neilgherries in every respect as wholesome and good as that now imported from England, and at a cost less by one-half, even including cartage to the station where it it is to be consumed.

Sugar cheap and good.

Good beer has been brewed on the hills by the writer of this Memoir.

I beg leave to observe, that in advancing these remarks, I do not base my expectations and assurances on mere surmise or theoretical views of the subject, but upon the results of actual experience, as I have now brewed several casks of beer without a single failure in the principal parts of the process, viz., malting, fermentation, and fining, while its quality has been much approved of by many persons who have tasted it, amongst whom I may enumerate Mr. Drury, the senior member of the Board of Revenue; Captain Bell, secretary to the Board; Major-general Kennett, Lord Gifford, General Gibson, with many others. In consequence of the success which attended my early experiments, in conducting which I employed malt prepared by myself from hill barley, with hops and dried yeast imported from England, and my confidence in the success of the scheme, if entered into by Government, I addressed a letter to the Commissary-general upon the subject, communicating such details as seemed of interest, and offering to carry on further trials on a small scale, at my own expense, if a copper could be supplied to me temporarily on indent from the Commissariat stores. I also sent samples of some beer which I had brewed, but which had an unpleasant taste communicated to it, owing to my having employed "gour" or "raw jaggery" in the brewing in place of refined sugar, without taking the precaution of cleansing it from the dirt and gummy matter with which this article is generally contaminated. I was not so fortunate as to receive a reply to this letter (beyond a message through a third party), and this absence of encouragement prevented me from following the matter further; but I may add, that for my own use I continue the manufacture with a success which convinces me that it is only necessary to extend the scale upon which my operations are carried, and to secure practical knowledge in the more important details of the process, to ensure the most complete realisation of my anticipations regarding the vast benefits to be derived by this item in the list of productive resources of the Neilgherries.

Samples sent to the Commissary-general.

No answer received.

Estimate of the expense of manufacturing malt liquors.

The following is an estimate of the cost of ale brewed here, from actual experiment. In England to make a hogshead (66 gallons) of strong ale intended for export to the tropics, the brewers use 6 bushels of malt and 6 lbs. of hops. Now it has been ascertained, since the introduction of sugar into British breweries, that 180 lbs of moist sugar are equivalent to 1 quarter, or 8 bushels of malt. If, therefore, both malt and sugar are employed in equal proportions, the hogshead will require 3 bushels of malt and 72 lbs. of sugar; considering the hill malt to be 100 per cent. inferior to English malt, I made use of 6 bushels of malt and 72 lbs. of sugar.

Estimate for brewing.

ESTIMATE.

	Rs.	*a.*	*p.*
6 bushels of barley, or 60 kolagums, at 12 kolagums per rupee -	5	–	–
72 lbs. (3 maunds) of sugar, at 4 rupees per maund - - -	12	–	–
7 lbs. of hops imported from England - - - - - -	7	–	–
Fuel for kiln-drying malt, and boiling - - - - - -	1	4	–
Proportion of labour in steeping barley, turning malt, drawing water, brewing, &c. - - - - - - - - -	2	–	–
Sundries - - - - - - - - - -	1	4	–
Cartage to Bangalore (1 cask a load) - - - - - -	9	–	–
TOTAL - - - *Rs.*	37	8	–

A hogshead should run 60 gallons of clear beer, hence *Rs.* $\frac{37/8}{60}$ = 10 annas per imperial gallon for the gross cost.

Yeast much wanted on the hills for making bread.

This estimate might be reduced in many of its items if a Government brewery were established here upon an extended scale. In the first place, all the yeast produced would meet with a ready sale in Ootacamund, for the bakeries which are now dependent on the low country for a supply of toddy, with which bread is fermented all over India, and which, having to travel a considerable distance before it reaches the settlement, is often found to have passed into the stage of acetous fermentation, rendering it either unfit to make bread with, or causing the bread to have an unwholesome and bad taste. A large quantity of yeast would also be daily required for the bakehouses of the European regiment located here. The estimate for hops, at 1 rupee per pound, delivered here, is far too high, as, if sent out by the Home Government in quantity, they could not possibly stand in at the brewery at so high a rate; and the cost of labour would be diminished if a large quantity of beer were brewed daily.

The revenue improved by the increased demand for barley for malting.

I would further beg leave to dwell upon the importance to this district of the establishment of such a manufacture upon a large scale in a revenue point of view, which, from the great demand it would create for barley, would soon lead to the reclamation of the greater part of the waste but rich lands, which are now left untouched through want of stimulus to the industry of the hill tribes, and also, as it appears to me, in some measure to the want of hands to till them; a deficiency which would, however, be speedily remedied by immigration from Mysore and the plains around. In fact, were it not for the assumption of absolute right over all the lands, waste and cultivated, which are situated on the plateau of these hills, by the Todas, burghers and Kothers, there is no doubt that many low-country people who came up here seeking employment as coolies, would form settlements, and permanently locate themselves wherever they could obtain possession of land to bring under cultivation. Should Government at any future time see fit to create an establishment on these hills for the manufacture of beer, it would be very advisable, and indeed in the first instance, almost indispensable, to connect with it a Government farm to serve as a model for the introduction of improvements in husbandry, both in regard to ploughing and dressing the land, and in the preparation of good manure, a department of the farmer's profession of which the hill agriculturists appear to have no knowledge whatever. Good seed must be sent from England and distributed amongst the burghers, upon whose exertions the stimulus of a premium, in the shape of a higher price for barley of a superior description, would doubtless soon produce a beneficial effect, while imitation of the system pursued by the employés of Government in the management of the farm lands would also, it is to be supposed, lead to the adoption of more civilised notions and practice of agriculture than are now to be found prevailing in any part of this rich but ill-appreciated hill tract. In this climate Europeans might, with perfect safety as regards their health, go through all the out-of-doors labour which falls to the lot of farming men in England. They do so in New Zealand and Port Adelaide, where the climate is unquestionably less temperate than here; and as on the Neilgherries the actual exertion of European bodily strength would only be required at particular seasons of the farming year, such as in the direction of the plough and the use of the scythe, while superintendence and instruction of the native labourers would alone be required on the part of a European in conducting the minor details of a farm, I cannot but think that in many respects a far finer field is offered on these hills to the emigrant farmer from home than is met with by the many who flock to the Australian settlements.

Advisability of establishing a Government farm for the purpose of promoting and improving the cultivation of whea and barley.

Europeans can labour in the day-time on the Neilgherries.

Labour cheap; two annas per day.

Here cooly labour is very cheap, 2 annas or 2¾ *d.* a day being the regular rate of pay for a working man who can perform any duty pertaining to spade husbandry, and undertake all the duties of a farm which in England fall to the lot of the common labourer, such as hedging and ditching, trenching, hoeing, reaping, stacking, thatching, &c. &c. A shilling a day or half a rupee is the pay of a bricklayer or carpenter; men to look after two horses receive 14 *s.*, or 7 rupees a month; cowherds 4 *s.* or 5 *s.*, and all other labour in proportion. These advantages, coupled with those presented by a ready and ever demanding market for such articles of produce as wheat, barley (oats if raised), clover, hay (of which article an immense quantity would be consumed in Ootacamund, if it was procurable), turnips, potatoes (Ceylon offering a very favourable market for this vegetable), butter, eggs, and stock of all descriptions, both for butcher's meat and for salting for ship use, would surely, it is to be supposed, tempt many indigent farmers to this hilly region whose necessities impel them to emigrate from the mother country, but whose steps are stayed by the warnings uttered by the many hundreds of their unfortunate fellow-countrymen who have hurried heedlessly out to the Australian colonies, only to meet with disappointment and ruin.

Site recommended for a Government farm.

To the westward.

Should circumstances ever induce Government to establish a farm on these hills for the purpose of encouraging the growth and extending the cultivation of wheat and barley, I should recommend two sites for its location; one on the elevated tract of land to the westward of the Pykara river, commencing at the north-west angle of the plateau near Neddiwuttum, and extending southward to "Makoorty Peak," the whole of which may be said to be uninhabited, there being only seven small Todar munds situated in it, and these not all occupied, while the soil is, for the most part, excellent, pasturage abundant, and the land covered in many parts with fine forest, rendering the tract (which contains about 12,000 acres) admirably adapted for the purpose which I venture to suggest.

Appendix, No. 5.

Kodenaad.

The other site is a fine tract of land, forming a sort of promontory in the north-east angle of the plateau of the hills called "Kodenaad," which is equally uninhabited, having only three occupied Todar munds within its limits; the soil good, and forest abundant, many fine wooded valleys extending through it, and offering a most eligible locality for a farm. The tract contains about 7,000 acres.

Other dry grains produced.

The other grain productions of the Neilgherries are ragghee, samee, koralle, tenney, buttacuddoley (a kind of peas), shanungee (a kind of gram), garlic, onions, kudagoo (mustard seed), vendium, opium and potatoes. Almost all the grains enumerated are raised solely for home consumption; and, excepting korallie, for which about 1,200 vellums of land are cultivated yearly, the quantity of each which is produced is insignificant.

I may, therefore, refer for further particulars regarding them to the accompanying "Statement," in which is set forth the total quantities of land cultivated and of grains produced, the ratio of return of crop to the seed sown, the selling prices of each, and the rates of assessment. The information upon which the Table has been formed is derived from the revenue accounts for 1847, and although the average of produce and return is rather a high than a low one, it may I think, generally speaking, be pronounced as correct as it is possible to make a return of its description in a district where the site of cultivation is so perpetually shifting, as is the case on the Neilgherry Hills. From the data given in the Statement, it will be apparent that where the cost of labour is so low as it is here, considerable profits must be realised by the cultivators.

Profit per acre to the growers on potatoes, wheat, poppy, barley.

In the items of potatoes, wheat, poppy and barley, we find that, after deducting the assessment and the cost of seed, there remains respectively as profit, and for repayment of the expense of cultivation—

	Rs.	*a.*	*p.*
On one acre of Potato land - - - - -	54	3	3
" Wheat " - - - -	16	-	-
" Poppy " - - - -	8	10	-
" Barley " - - - -	5	13	7

These are estimated upon the prices obtainable on the hills.

STATEMENT

STATEMENT of the Agricultural Products of the Neilgherries, in 1847—Fusly 1256.

Name of Production.	Quantity of Land Cultivated.			Produce.		Ratio of Return of Crop from Seed.	Gross Amount Produced.			Average Selling Price.			Rate of Assessment.					
	In Vullums.	Equivalent.		In Kolagums per Vullum.	Equivalent in Bushels per Acre.		In Kolagums.	Equivalent.		Per Kolagum of 2 Seers.	Equivalent.		For Good Land.			For Inferior Land.		
		In Cawnies.	In Acres.					In Bushels.	In Quarters.		Per Bushel.	Per Quarter.	Per Vullum.	Equivalent. Per Cawny.	Equivalent. Per Acre.	Per Vullum.	Equivalent. Per Cawny.	Equivalent. Per Acre.
										Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Wheat -	70	202	267	400	11·12	40 to 1	28,000	2,978	372	– 2 8	1 9 –	12 8 –	3 8 5	1 3 6	– 14 9	2 5 7	– 12 9	– 9 10
Barley -	1,419	4,109	5,433	400	11·12	20 „ 1	567,600	60,383	7,548	– 1 1	– 10 2	5 1 4	3 8 5	1 3 6	– 14 9	2 5 7	– 12 9	– 9 10
Raggee -	105	303	400	400	11·12	30 „ 1	42,000	4,468	558	-	not brought to market	-	2 – 11	– 11 5	– 8 8	– 14 1	– 4 10	– 3 8
Samee -	364	1,052	1,391	300	8·4	60 „ 1	109,200	11,617	1,452	- -	- -	- -	2 – 11	– 11 5	– 8 8	– 14 1	– 4 10	– 3 8
Koralley -	1,289	3,724	4,924	200	5·6	10 „ 1	257,800	27,425	3,425	- -	- -	- -	2 – 11	– 11 5	– 8 8	– 14 1	– 4 10	– 3 8
Tenney -	102	294	385	300	8·4	30 „ 1	30,600	3,255	407	- -	- -	- -	2 – 11	– 11 5	– 8 8	– 14 1	– 4 10	– 3 8
Buttacudaley	83	240	317	200	5·5	40 „ 1	16,600	1,766	221	– 2 8	1 9 –	12 8 –	2 – 11	– 11 5	– 8 8	– 14 1	– 4 10	– 3 8
Shanungee -	55	159	210	300	8·4	30 „ 1	16,500	1,755	220	– 2 8	1 9 –	12 8 –	2 – 11	– 11 5	– 8 8	– 14 1	– 4 10	– 3 8
Garlic -	132	381	504	600	16·8	48 „ 1	79,200	8,425	1,053	– – 10	– 8 –	4 – –	3 8 5	1 3 6	– 8 8	2 14 7	– 12 9	– 9 10
Onions -	31	90	141	700	20·	56 „ 1	21,700	2,308	288	– 1 1	– 10 2	5 1 4	3 8 5	1 3 6	– 14 9	2 5 7	– 12 9	– 9 10
Mustard seed	122	352	491	300	8·4	150 „ 1	36,600	3,893	487	– – 10	– 8 –	4 – –	3 8 5	1 3 6	– 14 9	2 5 7	– 12 9	– 9 10
Vendium -	67	194	256	200	5·6	100 „ 1	13,400	1,425	178	– 1 –	– 9 5	4 11 4	3 8 5	1 3 6	– 14 9	2 5 7	– 12 9	– 9 10
Poppy seed }	- -	- -	- -	100	2·8	100 „ 1	9,300	990	124	– 4 –	2 5 7	- -	3 8 5	1 3 6	– 14 9	2 5 7	– 12 9	– 9 10
}	93	269	353															
and Opium }	- -	- -	- -	2¾ lbs. per Vullum.		- -	242 lbs. Avoirdupois.			8 – –	per seer=*Rs.* 5 per lb.		included with the seed in the assessment.					
Potatoes -	49	141	186	600 Maunds per Vullum.		15 „ 1	29,400 Mds.=Cwt. 6,562			– 6 –	per Md.=*R.*1,,11p' lb.		7 – –	2 6 9	1 13 4	5 – –	1 11 8	1 5 –
	3,981	11,510	15,220	Acres of land under cultivation.														

Salting pork, &c.

for produce; but if potatoes and wheat were exported, a much larger profit would be realised. Hence another promising opening to emigrants, in the form of an establishment for breeding and salting pork for ship use, as, since potatoes and barley can be produced at so low a rate, and a herd of cows kept for nothing but five shillings a month for a herdsman, with a per-centage to cover interest on outlay and casualties, it cannot be doubted that the meat cured in this climate would both prove of excellent quality, and return, by its sale at Bombay or other shipping ports, a considerable profit to the breeder and salter. Under any circumstances larger profits must be realised than those returned from the same market to the exporter from Europe, who has to breed his stock under all the disadvantages of dear food and labour, and cost of freight to its destined port of sale.

Hides.

Amongst the productions of the Neilgherries may be enumerated hides, both of the buffalo and ox, the former of which are especially prized in the low country for making soles of shoes, traces, and other articles requiring a strong and durable leather. The hide of the bull buffalo is considered far superior in value to that of the cow. I have not been able to ascertain what quantity of hides are annually collected and cured here for export, but it cannot at present be very considerable, as it will be seen by the returns in the Appendix that the total number of buffaloes and bullocks herded on these hills is, comparatively speaking, by no means large.

Opium.

Opium is produced on the Neilgherries to a small extent, and it appears that the burghers who cultivate the poppy pay more attention to the collection of the seed (which fetches a very remunerative price as an article of food in the bazaars) than to the extraction of the drug from the capsules of the plant. The total quantity produced last year was under 200 lbs. avoirdupois; but I have no doubt it could be increased very greatly if other cultivators could be introduced on the hills, as the burghers, slaves to habit, prejudice, and the love of ease, oppose themselves to any change or improvement which involves additional trouble or personal labour.

Poppy fields require some care, both in preparing and well manuring the ground before sowing, and in hoeing and irrigating it whilst the plants are young. Hence this kind of cultivation is only carried on in the immediate vicinity of their villages, where the fields can be attended to by the women and children, and where manure, such as it is, is more readily and with less trouble collected.

Neilgherry opium of very fine quality.

The opium extracted by the burghers from their poppies appears to be of exceedingly fine quality, and meets with a ready sale in the bazaars of Octacamund amongst the Mysore and Malabar coolies, and others in better circumstances, by whom it is eaten in its raw state, but never, as far as I can learn, smoked.

Having thus reviewed the more important articles of agricultural produce, I am induced, before concluding the subject, to hazard the remark that I cannot but consider that the lands comprising the plateau of these hills, so valuable from their capacity for producing grains, which cannot be cultivated in the low country which surrounds them, and which are so much needed for the public good, are, under the exclusive system which at present prevails, both misappropriated in their partial cultivation and wastefully neglected, inasmuch as that there is not drawn from them that full amount of benefit to the community which nature has so eminently qualified them to contribute. On looking at the "Statement of productive resources," it will be seen that out of 11,500 cawnies at present under actual cultivation, only 4,300 cawnies are devoted to the production of wheat and barley, while on all the rest of the land grains are reared which, with only one or two exceptions, are grown just as well, and far cheaper, in the plains below, and would be brought up and bartered for wheat to any extent, could this much-wanted grain be procured on the hills in greater quantity. It will scarcely be credited that this district, so peculiarly well adapted for the cultivation of wheat, actually does not produce enough to supply the bakeries of the principal settlement, for the use of which large quantities of a very inferior description of grain are imported from Mysore; while the minor settlements of Coonoor and Kotergherry are supplied with bread from Coimbatore.

The Neilgherries misappropriated and neglected.

Hill wheat certainly finds its way to the low country by being bartered by the burghers with the traders for cloths and other articles, but the quantity thus exported is insignificant, and bears no comparison with that imported from Mysore.

Silk.

There remain yet a few articles of plantation produce to be noticed, the oldest of which in the agricultural history of the Neilgherries is silk. There are several plantations of mulberry trees in various parts of the hills, for the breeding of the silkworm, with establishments for preparing and winding the cocoons, the silk produced by which has, I understand, been pronounced in London to be of a quality very far superior to any produced in the plains, either in Bengal or other parts of India, and what has been sent to England appears to have realised very high prices. The quantity produced, however, has hitherto been very insignificant, and I confess, as far as I am able to judge, the scheme appears a complete failure. The mulberry trees do not shoot out fresh leaves with that redundant luxuriance which distinguishes all other descriptions of vegetation on these hills; the weeding, watering, and pruning which they require involves much expense, the worms require the most delicate treatment, both in regard to food and temperature, any mismanagement of which entails destruction on myriads, and the quantity of cocoons produced is not in a sufficiently large proportion to allow the superior quality of the silk reeled from them to secure a profit to the planter.

Already one extensive plantation and worm and silk house at Coonoor has been given up, and I should think it will not be found that this description of cultivation will be extended by future settlers.

Coffee.

Numerous plantations of coffee trees are scattered about the hills, principally situated on the slopes descending to the plains where the elevation suitable for the growth of this shrub can be obtained. Until within the last two or three years coffee plantations were only found on the eastern side of the hills, but representations of the excellent quality of the berry and of the advantages attending its cultivation on the Neilgherries having been made in Ceylon, the attention of the skilful planters of that island was attracted in this direction, and the result has been the opening of several plantations where I ventured to predict in a former memoir that this description of cultivation would sooner or later be introduced, viz., on the western slopes of the hills, where advantages are offered to the planter eminently superior to those the possession of which has of late years so greatly enhanced the value and importance of the neighbouring island.

Cheap labour, 4 rupees a month.

The chief of all is the cheapness of labour, a cooly receiving even on distant plantations in the "Koondahs" four rupees a month, while in Ceylon, eight, nine, and even ten are given; while in the pay of artisans, such as carpenters, sawyers, masons, &c., a still greater disparity exists in favour of this district. Second to this is the abundance of labour which can always be commanded here, the neighbouring provinces of Malabar, Mysore, and Coimbatore, supplying coolies in sufficient numbers to meet all demands and at all seasons of the year, while in Ceylon the utmost difficulty is experienced in most parts to obtain labourers when urgently required, and at all times the supply of coolies is extremely precarious. Planters here have also the advantage of a good public road passing through the heart of the forest land of the "Koondahs," and affording ready means for obtaining supplies, machinery, &c., or of sending away produce for shipment by a route of which less than 30 miles are by land, and 36 by water to the port of Calicut. One estate which was opened about two years ago near "Wallahkadoo," half way down the Koondah Ghaut, by the late Archdeacon of Ceylon, and Mr. Hutson, also of that island, and which I had an opportunity of inspecting recently on my way up from the western coast, is in a very flourishing condition, and has every promise of turning out most successfully. In its neighbourhood are tracts of virgin forest land of immense extent, stretching away over the innumerable spurs and valleys into which the koondahs are broken as they slope downwards towards the Ponany River, all eminently suitable for coffee planting, having the proper elevation, a good and rich soil, and enjoying a climate particularly favourable to the nourishment of this peculiar shrub. If the success which is looked for crowns the exertions and adventure of the first speculators, there can be little doubt that when the Koondah coffee appears regularly in the market as a production of this district, the attention of capitalists at home will be directed to it, and the western portion of this mountain tract become a source of great increase to the revenue of the country, while it will afford employment and subsistence to the many indigent people in the neighbouring provinces who at the present time suffer such privations from the want of it between the seasons of sowing and reaping the crops in the plains, and indeed for more than three-quarters of the year.

Western slopes of the Koondahs well suited for coffee cultivation.

The other, or what may be called the old plantations in the other parts of the hills, but principally on the north-eastern slopes, are insignificant in point of size, but remarkable for the peculiarly fine flavour of the coffee produced, which is considered to be owing to the high elevation at which most of them are situated. Some plantations near Coonoor and Kotergherry are 6,000 feet above the level of the sea, but it seems to me that the advantage derived from this superiority of flavour is more than counterbalanced by the general want of vigour and luxuriance of the coffee trees, which evidently do not thrive in this latitude so well at an elevation above 4,500 feet, as between that and 3,000 feet. It is not easy to estimate the amount of land at present under actual cultivation for coffee on the Neilgherries, as in most cases the coffee fields are so mixed up with the mulberry-grounds, that it is difficult to arrive at the precise extent of each, but it may be pronounced not to exceed 280 acres on the eastern side, and 300 acres on the western. The general return of those on the eastern side, which are the only ones at present in bearing, is on an average about six to seven cwt. per acre, which is a remunerative rate under the prevailing circumstances of cheap labour; but the trees require manure to keep them up to this rate of bearing, and more care in pruning and managing than is bestowed upon them. Salt provisions may be mentioned as an article of produce of the Neilgherries, though the preparation of them is not carried on in an extensive way. Hams, bacon, salt pork, &c., are cured in the settlements, and sold at a cheap rate; some cured by European settlers being of excellent quality. I am informed that the Bombay Government were anxious some time since to enter into a contract for the supply of the Indian navy with salt provisions in lieu of those prepared for Government use in the unsuitable climate of Bombay; but the opportunity of establishing this branch of productive industry on a firm and regular footing was lost, owing to there being no person on the hills who could be induced to undertake the responsibility of so extensive an engagement. The feeding of stock, if connected with a proper farm on which to raise dry food and support cattle, could be carried on most economically here, especially as regards pigs, whose chief food, potatoes, is raised on the hills out of almost any soil, and with a most profitable return. There might be more difficulty in fattening oxen for the salting-tub, because the pasturage on these hills, though for the most part luxuriant, is rank and fibrous, and does not appear to produce fat or flesh in ruminating animals, except in the case of the hill buffalo, which alone thrives upon it; but as mangel wurzel has been tried, and seems to take very kindly to the climate and soil, this difficulty might be overcome by its introduction. A good English grazier also would soon exterminate the bad grass out of his land, and replace it by grass from good mixed seed from home, which experience (on a small scale)

Plantations at Coonoor and Kotergherry too high.

Salt provisions.

Stock for salting could be fed economically.

scale) has shown to thrive well on these hills. Clover and lucerne also flourish here, especially on lands not more than 6,000 feet elevated above the level of the sea; in fact, under a proper system there never could be any want of dry as well as green food for fattening stock, felt in this district.

Fuel likely to become scarce on the hills.

There is another subject which before closing this chapter I am anxious to draw attention to, and that is the supply of firewood obtained from the woods with which the surface of the hills is dotted. This may at a casual glance appear comparatively inexhaustible, but I am satisfied it is not so, and that to preserve in localities where it may be called available for general use a provision for future years some measures of conservation should be adopted, more especially should European troops, with the host of natives who will follow them, be permanently located on the Neilgherries. At present while hundreds of trees are being felled daily, not one is planted, and it is reasonable to anticipate that unless some system is adopted to conserve and renew the woods, particularly in the neighbourhood of the projected barracks, Government will before long be put to a heavy expense in supplying the troops with this necessary of life from a distance.*

Modes of cultivation.

The modes of cultivation adopted by the agricultural hill tribes have been already so frequently adverted to in the preceding chapter on productions, that it will be only necessary here briefly to review them. I have described their system of agriculture as radically bad, and it is so for these reasons: First, because the land is not properly ploughed. Secondly, because it is not properly manured and dressed; and, Thirdly, because no change is ever made in the seed which they sow in it, not even to the extent of bringing it from neighbouring villages, the burghers sowing the same seed over and over again in the same soil, until an inevitable deterioration takes place in the product.

Ploughs very bad.

After one crop of corn, fields lie fallow for two and three years.

The plough used is a most wretched implement, the share being almost invariably a piece of pointed wood of a tough description, hardened in the fire, and not shod with iron or any other metal. Owing to this, and to the clumsy form of the plough which gives the man at the tail but little power over the instrument; the land is not furrowed or turned up beyond a depth of six inches, and consequently fresh and unworked soil is never worked up to the surface, but the top soil is alone made use of. The consequence of this and other causes is, that they can take but one crop off their lands of wheat and barley, and are then compelled to let them lie fallow always for two, and generally for three years before they are again brought under the plough. Attempts were I believe made some time back to introduce cast-iron ploughs amongst the burghers, but of course without success, first, because of the obstruction which their prejudices opposed to the introduction of the novelty, and, secondly, because there were no Europeans to show them how to use them, or how to team their little diminutive cattle so as to enable them to drag them. It would be useless, therefore, to attempt to make them use a better description of plough until the means for instructing them in its use could be commanded; and here again we see the advantages which a model Government farm would present in the facility with which all such innovations upon their old vicious system could be practically illustrated and made available for those for whose improvement it was introduced. At present, instead of making one plough perform the work of furrowing the ground to the required depth, six or seven ploughs are employed, each following precisely in the track of its predecessor, the spike of the one deepening the small trenches scraped by the other until when the last has passed it has been made what they consider deep enough, when they turn and form a new one. The ground is then worked chiefly by boys and women, with a small hand hoe (for they have no harrows or any other farming implement besides the plough), and the grass and weeds collected with the hand into small heaps and afterwards burned. Manure is then thrown over the fields and slightly worked in, and it is then considered fit for the seed. The wretched quality of the manure which they use next requires notice.

The hill agriculturists waste and destroy all their manure.

Lime dressing for the soil.

They have no knowledge whatever of the way to produce or manufacture, if the term may be used, manure, by heaping the dung of their cattle, and covering it in with alternate layers of soil and vegetable substances, but merely take the dung which has been lying exposed to the sun and weather for months, the whole of the nutritious gases having escaped, and its fermentation being long since over, and apply it in its dry and hard, and all but useless state, to the land. The consequence, of course, is, that the soil derives but little or no benefit from the manuring; no heat is communicated to it to encourage the seeds to germinate, or to stimulate and invigorate the growth of the young plant, and the grain produced is small, light, and poor. There is no doubt, as I have already remarked, that lime is the manure most needed to improve the general soil of the Neilgherries; but the expense of this material of course deters the native cultivators, whose ideas cannot be carried beyond the prospects and returns of the current year, from using it. But this expense, under a proper system of farming, would be found light, as in all probability about 40 bullock loads, or two tons of lime per acre, applied once in five years, would be found sufficient to produce a very great and remunerative improvement in the crops raised.

Expense, 25 rupees per acre, once in five years.

This quantity would cost, for lands situated within two or three miles of any of the passes or ghauts, about 25 rupees, and as the lime-burners are always glad to receive hill produce in barter for their commodity, for the sake of keeping their cattle employed, the cultivators would not be called upon to find capital to invest in this part of their farming operations.

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* Since this memoir was written, peat has been discovered in extensive deposits in all parts of the Neilgherries, costing about 3*s*. per ton.

A most essential point on which the hill cultivators stand in great need of instruction is the preparation of manure, for which the climate, with its sharp sun heat in the day and its cold dewy nights, so favourable to the promotion of decomposition, and the abundance of vegetable matter, rich in alkali, such as the fern, which is to be found all over the hills, affords great facilities. Every Burgher and Kother village has a large herd of cattle attached to it, which are penned during the night in a large circular pen, surrounded with stone walls, and allowed to graze over the country during the day. They are never littered at night, and their ordure is allowed to accumulate and lie exposed to the sun in the pen, until it becomes an inconvenience to the cattle, when it is removed and thrown outside, and left as before, uncovered and exposed, to waste away. Now, if a few trusses of fern were to be strewed occasionally over the pen, and all the collections, down to the scrapings of the soil, removed frequently, and laid in layers, with soil, weeds, fern, or other green vegetable matter alternately, the nutritive gases of the dung would be retained, the decomposition of the mass would proceed by slow fermentation, and by continually adding to the heap, or forming new ones, every village would have ready for use at the time of sowing, which is as soon as the frosts have ceased, a large stock of the very best and richest manure, instead of the small quantity of almost useless stuff which they now employ. I believe it has been ascertained in England that this system of covering in the layers of manure with soil adds 50 per cent. to its value, both because the gaseous matter is retained thereby, and because by its action the earth laid on becomes impregnated with ammoniacal and other salts, and forms an adjunct to the dung when worked up with it. It is not, therefore, too much to say, that by the introduction of a better system of preparing manure, or rather by the introduction of a system where none now prevails, the produce of the lands cultivated by the hill tribes would be increased by 50 to 100 per cent., and it would moreover enable them to bring more land under the plough, and avert the necessity which they find or consider to exist, for allowing their corn lands to lie fallow two or three years for one year of crop. Indolence, combined with apathy, is, however, the prime cause of their deficient system of agriculture, for I firmly believe that were fine manure heaps prepared in this way for their use, they would, avaricious as they are, prefer letting a field, capable, if sufficient manure were applied, of producing a crop of wheat, remain fallow through the year, to carrying the manure to it, if it lay at the distance of a mile or so off.

Preparation of manure.

They never use carts to carry manure to their fields, or to bring produce home, everything being carried on their heads, although in many parts of the hills the features of the ground would admit of the light bandy of the country being employed very advantageously. Such an innovation would, however, never be dreamed of. Thus it is that this fine district, capable of being turned to such great account, is perverted in its use, and undeveloped in its resources; grains which can be produced in almost any soil, and in the sultry climate of the plains, raised on its lands, because they require no manure, or but little, to nourish them, and because their culture and future management involve no great labour or trouble to the holders of the soil. A striking contrast in respect of agricultural industry and a desire to improve is presented by the system pursued by the emigrant natives from the plains who have settled in various parts of the hills, principally in the vicinity of the European stations, and employ themselves in cultivating small patches of land for patatoes, turnips, and other European vegetables. These men, having had the value of the soil pointed out to them, are now commencing in various parts to drain and reclaim the bog lands, and raise upon them crops of the very finest potatoes, with a very small outlay. Their enterprise is, however, circumscribed by the absence of an extensive demand, and by the want of dealers, who might buy up the surplus stock in the settlements, and send the commodity either to Ceylon, where a highly remunerative market would be found, or to the several large stations in the plains, where the demand is always active.

No carts employed on farms.

Native emigrants from the plains more industrious than the burghers.

Wheat, barley, and most of the other kinds of grain produced on these hills, are sown generally in April, when the frosty weather has entirely passed away, and the crops are cut, if the season has been favourable, in July. Poppy seed, however, is sown in October, and the drug collected in January, as it is found that the opium exudes more freely and of greater consistency and richness in frosty than in warm weather. For potatoes no particular time is observed, the sets being put in the ground in any month, except the most frosty ones of December and January; and as soon as one crop is taken up, which is in three months from the time of setting, the land is manured, dug, and hoed, and fresh sets put in without any delay, so as to ensure three full crops during the twelve months.

Wheat, barley, &c., sown in April, and reaped in July and August.

Three crops of potatoes raised annually from the same land.

The prices of all the grains produced on these hills have been already given in the table at page 273; it is, therefore, only necessary here to particularise those productions which have not found a place in that return.

Prices of principal products.

Coffee.—The average price of coffee in the bazaar is five rupees per maund of 25 lbs.; but it fluctuates much, being at the present moment not more than four rupees a maund, owing to the anxiety of growers to get rid of their crops, picked in November and December, on the spot, to avoid the expense and risk of sending them to Madras or to the western coast for shipment.

Silk.—For this article there is no sale on the Neilgherries.

Hides.—These are to be obtained, but in limited quantities. Buffalo hides are sold at two rupees each, and ox hides at nine annas.

Building Materials.—(At Ootacamund) Bricks per 1,000, 2 rupees; tiles per 1,000, *Rs.* 1. 12; teakwood and chunam are brought, the one from Seegoor, and the other from the province of Coimbatore.

Appendix, No. 5.

Salt Provisions.—Hams are sold at five annas per lb.; bacon at four annas per lb.

Butter—Fresh, one rupee per lb.

Jungle Wood.—The best description is the "bastard cedar," which is now extensively used for flooring, planks and doors, shelves, &c., in house building. The price is about seven annas per 12 square feet of one inch thick. Rafters, lintels, beams, &c., in proportion.

Bees Wax—Unbleached, is sold by the eurelars and coorumbers at one quarter rupee per seer.

Castor Oil—Of very excellent quality is expressed here, and is sold at three annas per quart bottle, or about one rupee per imperial gallon.

The prices of these articles, of course, differ at each of the three settlements; but the difference is slight, and not worth recording in this statement.

Tenure and occupation.

Land is held on the Neilgherries by European settlers under a putteum or grant from Government, leasing it to them in perpetuity* so long as the regulated assessment is paid. In the cantonment of Ootacamund grants are made of the land without any fee being exacted; but beyond its limits, as every spot, whether utterly barren and incapable of production or only untilled waste, is laid claim to by either the todars, the burghers, or the kothers, the land has to be purchased from one or other of these tribes, who exact such price as they think fit. After such purchase has been effected, it is necessary to apply to the Collector of the district for a putteum or acknowledgment of right to occupy and cultivate, though this may be considered a matter of mere form. The tenure of land by the various hill tribes will be more fully entered on in describing each separate race of people; it will, therefore, only be necessary to record here, for the sake of reference, the general circumstances which rule it.

Tenure of the todars.

The todars hold their land, which they consider to extend over the whole plateau, by right of immemorial occupation, alleging that their ancestors came to the Neilgherries before there were any kings or sovereign rulers in Southern India, and never paid tax or tribute to any one.

Tenure of the burghers.

The burghers hold their land, which, if their vague claims are to be allowed, may be stated as comprising two-thirds of the whole hill plateau, nominally by permission of the todars, to whom they pay, in acknowledgment of the proprietary right of the latter a "goodoo" or tribute (being synonymous with the word "yomeah" in Hindustani), which ought, according to the claims of the todars, to amount to one-sixth of every description of grain produced by the cultivators. This "goodoo" is, however, evaded to a great extent, the burghers giving to the todars just what quantity of grain they think fit to part with, and of those descriptions which they can the most readily spare; while some refuse to give anything at all, until compelled by the todars. This system, in its enforcement without the direct sanction of Government, naturally leads to much wrangling and confusion, and may hereafter be productive of mischievous consequences as the sentiments of the burghers change, and they view, as they already, I think, begin to do, this "goodoo" in the light of an illegal and unauthorised impost. They admit that before the days of the East India Company they used to pay one-sixth of their produce to the todars, but that was when their number was small; and when more of their tribe came from the north country to join them, and when they began to imbibe notions of independence from the Europeans, they reduced their tribute until it has arrived at its present footing, that of a "yoemeah," or voluntary contribution.

In speaking of the collection of the "goodoo" by the todars, the burghers speak of the Collectors as "peechakarur" (which means "beggars"), a term sufficiently explanatory of their view of the question of right on the part of the todars to demand the tribute.

Tenure of the kothers and eurelars.

The kothers hold their lands under the same terms.

The eurelars hold the patches of land which they cultivate, and which are all situated to the eastward, near Runggaswamy Peak and the Kotergherry Pass, independent of the todars, who profess not to assert any proprietary right over the lands which extend below the actual summit or plateau of the hills. The eurelars have a loose kind of tenure of their land, holding it at pleasure so long as they pay the assessment. But they cultivate so little, that it is scarcely worth noticing.

Modes and rate of assessment.

The assessment on lands on the Neilgherries is divided into two classes, one applicable to those held by the native agriculturists, and the other to those occupied by European settlers.

It is levied on the former according to the measurement of fields actually bearing crop, estimated in "vullums" (pronounced sometimes "bullahs"), each vullum being equivalent to two cawnies, 21 grounds, and 864 square feet; or in English measurement, 1 vullum = 3 $\frac{41}{80}$ acres, the rate of assessment being fixed according to the nature and abundance of the crop which the land is bearing at the time of measurement. When harvest-time approaches, the ghomastahs and curnums proceed to the different villages, and form an estimate of the probable out-turn of the crop on each field from its appearance, rating it as first class if it promises to be abundant, and as second class if otherwise.

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* Within the limits of the cantonment the grants of land are for 99 years.

The highest rate levied is on lands cultivated for potatoes, which pay 7 rupees per vullum for first class ground, and 5 rupees per vullum for second class ground.

The next rate in the scale of assessment is applied to lands bearing

	Rs.	*a.*	*p.*
Wheat, which pay for first class ground - - - - -	3	8	5
and for second „ „ - - - - -	2	5	7
Barley, which pay for first class „ - - - - -	3	8	5
and for second „ „ - - - - -	2	5	7

per vullum, and the same for poppy, vendium, mustard seed, garlic and onions.

The lowest rate applies to raggee, samee, koralley, peas, shanungee and tenney, all of which pay *Rs.* 2. 0. 11 per vullum for first class land, and for second class, *Rs.* – 14. 1. per vullum.

For further particulars regarding these rates of assessment and their equivalents per cawny and per acre, I may refer to the table at page 273.

Lands held by Europeans, whether by grant of Government within the limits of the cantonment, or purchased from the Hill people in more distant localities, pay assessment as follows:

	Rs.	*a.*	*p.*	
For ground occupied as sites of buildings - - - -	5	4	–	per cawny
For ground appropriated for gardens and general agricultural purposes - - - - - - - - -	1	2	4	„

Labour employed, and its remuneration.

The description of people available on the Neilgherries as labourers differs according to the situation of the land on which they are required to work.

Thus in, and about the settlement of Ootacamund, the coolies employed are all emigrants from the plains of Canara, Malabar and Coimbatore, or from the Mysore territory; the Canarese and Mysoreans being the most numerous.

Their remuneration is commonly 2½ annas per day, or 3¾ *d.*

In the vicinity of Burgher villages, and especially about Coonoor and Kotergherry Burgher, labour is available in abundance at the rate of 2 annas per diem, and they are extensively employed by settlers to cultivate their gardens and to work on plantations. Carpenters and bricklayers are mostly people from Paulghat in Malabar, or from Coimbatore; their rates of pay vary according to their expertness, from 8 annas a day to 6. Stone-cutters work by the piece, receiving on an average for smoothed granite slabs, steps, coping stones, &c., 8 annas per running foot, of about 1 foot by 6 or 8 inches, breadth and depth; sawyers in like manner work by the piece, at the rate of about 2¼ rupees per 100 feet of surface cut. It is difficult to obtain the services of this class of artizans on the hills, as they all resort to the Teak forests at Museum Coil and Tippacadoo, near Seegoor, where they always find abundant employment.

Brickmakers and tilemakers work, of course, by contract, at the rates already specified under the head "Prices of principal products."

There are several tolerable blacksmiths, silversmiths, and abundance of tailors settled in Ootacamund and the minor stations; while, on the eastern side of the hills the Kothers are generally employed as artizans for rough smith's and carpenter's work.

These hills possess a great advantage in regard to labour, which is, and always must be, abundant; because as soon as the seed is put into the ground in the adjacent low country, the poorer class, or labouring men, are thrown out of employment until harvest time is past, unless some extensive public work happens to be in progress, and therefore come to the Neilgherries for work in preference to wandering away to Ceylon and other parts to search for it, whenever a demand exists here for their services.

The common rate of pay to all such labourers employed on plantations is 4 rupees a month, and for this sum they labour contentedly for nine hours a day, performing work which, though it cannot be compared with Negro labour, must nevertheless be pronounced cheaply remunerated at the rate quoted above.

CITIES.

Towns and villages.

The only town on the hills, properly so called, is "Ootacamund," and even this term can only be applied legitimately to the native portion of the settlement, since the residences of Europeans are too widely dispersed along the slopes of the valley in which the station is situated, to admit, at present, of its further extension. So rapidly however is the number of houses increasing and keeping pace with the increased resort of Europeans to these hills from almost all parts of India, while at the same time a consequently augmented demand for supplies for the European community is daily drawing more native merchants and traders to the place as permanent settlers, and thus swelling the size of the bazaars beyond

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all bounds, that before long the term "town" will not be inappropriately applied to the whole settlement, while that of "cantonment" will be transferred to the valley of Jukatalla, where the European barracks are about to be built. The houses of the European inhabitants of the settlement are for the most part substantially built; the walls are usually of burnt brick set in clay, and pointed or plastered with lime, roofs of tiles, or puckka terraced; and rarely of thatch, while all the timber work of the roof, doors, floors, &c., &c., is of teak, which is brought at a great cost up the Seegoor pass from the forests on the borders of Mysore. There are, however, many excellent and durable descriptions of house building timber to be procured on the hills at one quarter the cost of teak, but a prejudice exists against their use, because roofs constructed with hill-grown timber have, in some instances, been found to decay with great rapidity, and hence its employment has been condemned by builders who have overlooked the real cause of its decomposition, which is, its being put together and covered in before it has been sufficiently seasoned. As an instance of its efficiency, if attention is paid to this important point, and the wood properly selected, I may mention that the present survey office has a roof made entirely of jungle wood cut on these hills, which has been standing more than 20 years, and which, on a recent examination, was found to be perfectly sound. All other building materials (except lime) are procured on the spot, abundance of tolerably good brick clay being found in every part of the hills.

Much good timber for building to be obtained on the hills.

Bricks and tiles very bad.

Lime dear.

Clay used as cement for walls.

The bricks and tiles made are however very inferior, but this is owing to the wretched way in which the clay is worked and moulded. A labourer mixes a little water with it with a mamotie, treads it for a few minutes with his feet, and then pronounces it tempered, and carries it to the moulder without further preparation. Bricks can be contracted for in Ootacamund, delivered at the kiln at two rupees per thousand; and tiles, one rupee twelve annas per thousand. Lime, as I have elsewhere observed, does not occur, or at least has not yet been found on these hills; and hence, having to be brought on bullocks from the plains, it forms the most expensive item in building estimates. Its use is economised as much as possible in house architecture by using mud as a cement to set the bricks in, in constructing walls, reserving lime only for use in turning arches, ridging the tiles in the roof, flooring, and either pointing or plastering the walls outside, with which protection brick and mud walls are found to answer very well; especially if the roof over them is kept tight, and their surfaces screened from the beat of the rain against them by a verandah. In the bazaars of Ootacamund, which are called "the bazaar" and "caundle bazaar," the houses are of all descriptions, both puckka and cutcha. The streets are wide and well kept by the police authorities, by whom a tax, varying from one anna to one and a half on each house per mensem, is levied to support the scavenger establishment, the residue being paid into the public treasury; and if good regulations are enforced, as regards the laying out of future quarters of residence, already fast extending, the town, which the bazaars will constitute, will become a very cleanly and compact one; and hence, doubtless, healthy also. It has the advantage of being bordered by the lake or tank, which adds, of course, materially to its means of preserving cleanliness.

The following is a Return of the European and Native Population of the Three Settlements, taken in February 1848, and although many present Inhabitants, with their Servants and Followers, will have left the Hills before the Year ends, the Total Numbers may yet be taken as a pretty correct Average of those usually residing, as of course the place of those removing is soon occupied by fresh comers from the Plains:—

	Europeans.				East Indians.				Hindoos.				Mussulmauns.				Pariahs.				Number of European Houses.	Number of Native Houses.
	Adults.		Children.		Adults.		Children.		Adults.		Children.		Adults.		Children.		Adults.		Children.			
	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.		
Ootacamund - -	93	97	57	66	38	34	22	23	935	828	431	601	341	238	130	143	1,642	1,506	732	752	146	1,743
Kothergherry - -	9	5	4	4	8	6	11	12	49	49	17	20	7	5	3	1	56	55	22	24	15	98
Coonoor - -	5	2	–	–	1	1	–	–	80	65	32	29	9	9	8	7	50	60	20	19	15	131
Aravungaad* - -	–	–	–	–	–	–	–	–	3	3	2	1	–	–	–	–	6	7	4	4	–	12
Total Population -	342 Souls.				154 Souls.				3,045 Souls.				901 Souls.				4,941 Souls.				176	1,984

* A small native settlement in "Sappers' valley," between Kaitee and Coonoor.

The

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The settlement of "Ootocamund" is situated in an extensive open valley, almost in the exact centre of the hills, open to the westward, but bounded on the north, east, and south by the great Dodabetta range, or spurs projecting from it westward.

The settlement of "Coonoor" is situated on the crest of the hills in the south-east angle of their summit, the residences of the Europeans, including an hotel, being placed on the rounded tops of a range of hills, which runs from a high mountain called "Coonoor-betta" towards the top of the pass, while the bazaar or native residences are in the hollow below, and adjacent to a masonry bridge which spans a wide stream flowing from the Jakatalla valley and descending the hills at this point in a large volume of water.

The settlement of "Kotergherry" which with that of "Dimhutty," which is contiguous to it, is the oldest on the hills, is situated in the north-east angle of the plateau, immediately overlooking the low country, and at the head of the Kotergherry Ghaut. The bazaur, which is increasing considerably in size, is built on the same range, with the residences of the Europeans.

"Dimhutty" cannot now be called a settlement, since there is but one habitable residence existing there, all the bungalows built long since by Government for the accommodation of invalids, having gone to ruin and become unfit to occupy or repair. The temperuture is warmer at this place than at any of the other three settlements, and hence it is very rarely resorted to by Europeans. Under this head may be enumerated the public bungalows and chettrums, or caravanserais, for the accommodation of travellers, native and European, and which are under the control of the officer commanding the Neilgherries, and kept in repair by him at the public expense.

Accommodation for travellers.

LIST of Places of Accommodation for Travellers.

	For Europeans.	For Natives.
At Ootacamund - - - - - - -	None.	1
„ Coonoor - - - - - - - -	1	1
„ Kotergherry - - - - - - -	None.	None.
„ Neddiwuttum - - - - - - -	1	None.
„ Pykara - - - - - - - -	1	None.
„ Kulhutty (Seegoor Pass) - - - - -	1	None.
„ Nunjanaad (Koondah Road) - - - -	None.	1
„ Avalanche (ditto) - - - -	1	1
„ Burliar (Coonoor Pass) - - - - -	None.	1
„ Kaitee (Coonoor Road) - - - - -	None.	1
* TOTAL on the Neilgherries - - -	5	6

POPULATION.

Numbers of people of different descriptions.

Appended to this Memoir will be found tables furnishing all particulars of the several tribes, constituting the body of aboriginal settlers, on these hills and of the European and other inhabitants of the three settlements. The following is the summary.

	Souls.	Souls.
Europeans including Children - - -	- - -	342
East Indians ditto ditto - - -	- - -	154
Hindoos ditto ditto - - -	3,045	
Mussulmauns ditto ditto - - -	901	
Pariahs ditto ditto - - -	4,941	
		8,887
HILL TRIBES.		
Todars ditto ditto - - -	337	
Burghers ditto ditto - - -	6,569	
Kothers ditto ditto - - -	307	
Eurelars ditto ditto - - -	461	
		7,674
TOTAL Population of the Neilgherries - - -		17,057

Deducting from the total area of the plateau, that portion lying to the westward of the Pykara, or Moyaar river, which I have elsewhere described as almost entirely uninhabited, there remains a space of 420 square miles over which this population is distributed, giving a proportion of 40 souls to one square mile.

For

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* Exclusive of the Koondahs.

Employment.

For the reasons already stated under the preceding head, no place or number can be assigned to the tribe of Coorumburs in this statement. Their number must however be very insignificant, probably not above 200 or 300 souls. With the exception of the Todars, who pass their days in utter idleness, all the aboriginal tribes, or mountaineers of the Neilgherries devote themselves to agricultural pursuits. With these duties the Kothers alone combine those of the artisan in a humble way, as will be treated of in describing the people of that tribe.

The Todars, or Todawars.

Total number, 337 souls.

This remarkable race differ in almost every essential respect from all other tribes of the natives of Hindostan, and their singular characteristics and strange habits have given rise to much speculation as to their origin and history. As no clue has however yet been discovered either in the form of monuments, coins, or even in their own traditions, by which research could be directed, all theories broached upon the subject cannot be otherwise than vain and illusory, especially those which have been based upon the assumption that the images, bones, and other relics which are found in the remarkable "Cairns" discovered in such numbers all over the hills, belonged to the ancestors of the Todars.

Personal appearance very striking.

Dress peculiar; the toga worn.

Revenue Department, No. 18 of 1843, para. 11.

That these are not relics of the founders of their race is proved by the present people denying all knowledge of the history of the Cairns, even by tradition, and by their looking on at their desecration with as much curiosity and indifference to the sacrilege, as is displayed by the antiquarian explorer whom they have perhaps guided to the spot. In form and countenance the appearance of the Todars is remarkably striking. Tall, well proportioned and athletic, their bold independent carriage, and finely moulded and sinewy limbs attest that they can be sprung from no effeminate Eastern race, while their aquiline nose, receding forehead, and rounded profile, combined with their black bushy beards and eyebrows give them so decidedly Jewish an aspect, that no beholder can fail to be impressed with the idea that they must in some way, however remote, be connected with one of the lost and wandering tribes of the ancient Israelites. Their dress is as peculiar as their habits and appearance, consisting of one single cloth, a sort of toga, which they wear after a fashion well calculated to set off to advantage their fine muscular form, being disposed about their person like the plaid of a Scottish Highlander. They have no covering for the head of any kind, but never allowing knife or scissors to approach their hair they suffer it to grow into a mass so thick and bushy as to form a most effectual protection from the inclemency of the weather. The women are rather fair in complexion, the hue being a dull copper colour in both sexes, and are generally handsome in feature as well as in person, which is tall and well shaped like that of the men, their attire being equally simple and peculiar. The little occupation which the Todars permit themselves to engage in, is solely of a pastoral kind. Considerable herds of buffaloes are attached to each mund, and to milk these, convert their milk into ghee, drive them out to pasture in the morning and home at night, and to keep their huts and the walls of their cattle pens in repair constitute the sum of their employment, from year to year of their useless existence. Their food consists of curds, milk and ghee mixed with whatever grains they can obtain from the agricultural tribes in the shape of "goodoo" or tribute for the lands which the latter cultivate, and over which the Todars assert an imaginary proprietary right. I observe that the Honourable Court in their despatch express a hope "that in course of time they may be induced so far to change their habits as to bring the lands in the vicinity of their munds into cultivation." I fear, as long as this practice of receiving their grain from the Burghers and Kothers remains in force there is but little chance of this desire being realized, and the only inducement, in my opinion, by which they would ever be brought to condescend to yoke their powerful buffaloes to a plough and take the handles in their hands, would be that promoted by the stoppage of their supplies by the removal of the "goodoo" imposition, and their consequent reduction to the primitive state of life which, by their own account, their forefathers led before the Burghers came to settle on the hills.

Traditionary history.

Institution of the "goodoo."

Their own idea of their history is that "their ancestors came from nowhere;" that they were created on these mountains, and that for ages no other living soul approached them: that their dress was of leaves and their food the produce of their cattle and the roots and fruits of the forest. That at length some Kothers found their way to the neighbourhood of their munds and craved permission to cultivate land and build their huts, which was given on condition of their making offerings to them (the Todars) of a portion of their produce. That soon after this, some Burghers or "Buddaghars" came up the hills, and observing the success which had rewarded the adventure of the Kothers, asked permission to settle also, and obtained it on condition of the payment of the "goodoo" or tribute of one-sixth of their entire harvest. More Burghers soon followed the first comers, the amount of the "goodoo" became extensive, the habits of the Todars changed, the cotton embroidered toga took the place of the mantle of leaves, and messes of grains of many descriptions pampered the appetites of beings who were before as primitive in all things as their native hills. With increase of numbers however the deference of the Burghers for them diminished, and with it the amount of the "goodoo," which received a great acceleration in its decline by the coming of Europeans to the district, when the Burghers observing their indifference to the alleged claims of sovereignty of their hitherto feudal landlords, gradually assumed the position of donors of the "goodoo" of free will and as a charity, and hence reduced its amount as the circumstances of an abundant or poor harvest, or their own wants and inclinations directed. Upon this footing, as far as I have been able to arrive at a right understanding of the question, the "goodoo" appears at present to rest. The Burghers profess not to desire to be relieved from it as a tax, because to give it as a donation to the Todars has become with them a time-honoured custom, which their prejudices forbid them to break through—but it seems to me evident that they are not disposed to admit the absolute right of the Todars to demand it, and hence their allotment of the quantity of the produce which they are to bestow under the name of "goodoo," according to their means, their own wants, or fancy. Anything more utterly useless, or unproductive in the social scale than the life led by the Todars, it is impossible to conceive. Endowed with great physical strength and capacity to endure fatigue and vicissitudes of weather, and hence eminently fitted for a life of agricultural industry or other active employment, this fine race, instead of legitimately developing the powers which have been given to them, devote their lives to the unprofitable end of herding a number of buffaloes, the only use of which is to produce the small quantity of milk required for the use of the few families which congregate together in each mund, and to furnish sacrifices to the manes of any one of their male proprietors who dies.

Unprofitable and idle life led by the Todars.

Their herds are a nuisance and a pest to the district, for being exceedingly wild and ferocious, especially to Europeans, they frequently attack persons travelling on the high roads when not attended (as is generally the case) by a herdsman, and serious accidents occasionally result. Whatever may have been the attributes of the Todars when Europeans first became acquainted with them, they appear at the present time to be decidedly as indolent, mercenary, and sensual as any of the worst tribes in the plains; and, but for the meretricious interest which attaches to them through their singular mien, costume and habits of life, and the mystery in which their history is enveloped, they would be deemed a perfect cumbrance to the soil. Their religion is, of course, Pagan, and engenders the usual superstitions and prejudices. They have no distinct "samee" houses or places of idol worship, but devote to this purpose the dairy or hut in which they keep their milk, ghee, &c., and in which they offer, by libation, to their deity such milk as is not consumed in the daily use of the tribe. Their domestic rites are as strange and barbarous as is all connected with this singular people. The wife of one amongst several brothers is common to the whole circle, and every woman besides her husband has a certain number of gallants, who reside with her at pleasure and by turns. To such practices as these it is, doubtless, to be attributed that this race does not increase in numbers, and is evidently deteriorating in physical endowments.

Religion, Pagan.

The great mass of the Todas inhabit the vallies and woods to the westward of the plateau, being confined, with the exception of five inhabited munds in Parunganaad, and two in Meykenaad, to the division called Todanaad; and it will be seen by the map that in this portion of the plateau their munds are principally congregated to the westward, apart from the villages of the Burghers, only a few in the neighbourhood of Ootacamund and to the northward being interspersed amongst their cultivated lands.

And to this portion of the hills, viz., to the extreme westward, it would be highly desirable that the whole tribe should be restricted, as they would have the benefit of abundance of excellent pasture land for their cattle, and being there entirely apart from the other inhabitants of the hills, would be free to carry on their rites and superstitious observances without hindrance from others, and without the possibility of causing annoyance to the rest of the population. It has been distinctly stated to me by the Todars, Burghers, and the talook civil authorities, that the Burghers, whose villages are situated in Todanaad, have to support, by payment of the "goodoo," all the Todars who occupy munds in that division, without aid from the Burghers of the other two naads, who are only bound to maintain the Todars who actually reside within their respective limits. Hence an apparently palpable injustice to the Burghers of Todanaad, since, as will be seen by the census returns, the tribe are pretty equally distributed throughout the three naads; whereas, out of a total of 337 souls, of which the tribe of Todars at present consists, only 42 are located in Parunganaad and 10 in Meykenaad, while all the rest, amounting to 285, are located in Todanaad. This seeming difficulty in equalising the infliction of the "goodoo" impost is overcome in the following manner. As soon as harvest is over, and the "goodoo" collected in Todanaad, the Todar men of that division pay visits to the munds in Meykenaad and Parunganaad, and take up their abode with the women of the community (to the temporary exclusion, as is their custom, of the legitimate husband). They then pay visits to the surrounding Burgher villages, and demand, in their right as temporary husbands of women of the naad, the "goodoo," which, strange to say, is paid; and thus the same man, perhaps, who has laid a whole village in his own naad under contribution, goes the round of the other two naads, appropriating the fruits of the Burghers' labour and industry, and carrying off enough grain to support his whole community in idleness and plenty until the arrival of the next year's harvest time, and to produce by sale in the nearest bazaar sufficient money to pay the tax or "pillooverry" which is levied yearly on their tribe. I should have refused credence to such a statement had I not received it on the best authority, that of the tahsildar of the district.

Desirable if possible to restrict the Todars to the western confines of the hills.

Levying contributions on the Burghers.

The habits of the Todars are migratory, almost every community or particular group of families consorting together, having two or more munds or villages belonging to them, between which they divide their time according to custom, fancy, the state of the weather, or other circumstances, such as the death of one of their body, upon which occurrence they immediately migrate to another mund. The grass upon which they pasture their buffaloes is of a coarse rank description, fit only for those hardy and powerful animals; but by burning it down, as is their practice, just before the rains set in, when they are about to migrate to another mund, a fine tender young grass, highly nutritious as pasture, has replaced the

Migrate from mund to mund.

ashes of the old grass by the time they return to the mund round which they had run their fires.

Fine breed of buffaloes decreasing.

According to their own statements, the fine breed of buffaloes, which seem peculiar to the district, is rapidly decreasing, murrain and other diseases having of late years carried them off in far greater numbers than are bred to supply their places. Doubtless the system of perpetual inbreeding aids in their deterioration. There are some Todar munds on the "Koondah" mountains, but as that range is not in this talook, no information relating to them can be gained until the survey has been extended in that direction. While speaking of the Todars' buffaloes, I should mention that a few only of the small calves brought forth by their cows are preserved for perpetuating their stock, and all the rest killed while young and eaten by the Todars themselves. If these calves were castrated and reared, they would be most admirably suited, from their great strength, to drag proper iron ploughs over the steepest and most difficult ground. The Todars pay an annual tax to Government of 9 annas and 5 pice per head on all the female buffaloes herded by them, the bulls being exempt from tax; and in addition to this they pay a small assessment on grazing land, called "pillooverry" or grass tax, at the rate of one-quarter of the sum fixed as the lowest class assessment for cultivated land per vullum, the quantity of land which they are called upon to pay being estimated according to the number of buffaloes herded at each mund, at the rate of about 10 vullums per 100 head of cattle. The amount of revenue collected from the Todars in 1847 was—

Tax paid by the Todars to Government.

	Rs.
On account of tax on buffaloes - - - - - -	960
Ditto - ditto - pillooverry - - - - - -	400
TOTAL - - - *Rs.*	1,360

The Kothers.

The Kothers rank next to the Todars, according to common tradition, in seniority as occupants of the Neilgherries.

Six villages; 307 souls.

They are of low caste, equivalent to that of the pariah in the plains, and consequently are always found dwelling by themselves in isolated villages, of which there are only (six) 6 on the plateau of the hills, and generally called after the race "Kother-gerry." Around each village they have lands, considered and admitted by their Burgher or Todar neighbours to be exclusively their own, no disputes about boundaries or the right to certain tracts occurring amongst them at any time, so far as I can learn. The Kothers are an exceedingly industrious and useful race. They give all their time to husbandry when the land calls for their care, but when the seed is in the ground, and their time disposable, they employ it in all sorts of mechanical avocations, repairing the ploughs of their own and the neighbouring villages, as well as bill-hooks, mamoties, and all other farming implements, and executing a great variety of smith's and carpenter's work.

Industrious.

Iron smiths, carpenters, and basket-makers.

It is by these people that the buffalo and other hides of hill cattle, which are so much prized by the workers in leather in the plains, and which should form a very important item in the export list of the district, are dressed and prepared for the purposes of commerce, the Kothers being very expert curriers.

In common with the Burghers they pay "goodoo" in grain to the Todars of their naad, in acknowledgment of their feudal proprietary right over the land which they till, and which it appears the Todars, in spite of their own purity and the uncleanness and low caste of the Kothers, do not hesitate to receive and eat, though no Burgher would touch grain so polluted. The Kothers are not extensive cultivators, bringing only land enough under the plough to yield the quantity of grain required for the use of the village, with a small surplus, which they barter with the low country traders for iron to carry on their forges.

Hence by far the greater part of the land to which they lay claim in the vicinity of their villages remains waste, and is likely to do so as long as the present proprietary system continues in force. In some parts of the hills this land is of a very fine description, which, according to their explanation, is to be ascribed to their having come to these hills the first of all the agricultural tribes, and thus enjoyed the privilege of selecting the best land.

Their religion is of course idolatrous. Their marriage customs and ceremonies are not very dissimilar to those observed amongst the people of the pariah caste in the plains, and they have no plurality of wives or of husbands. They are impure and dirty in their habits, eating the flesh of cattle which die by the roadside of disease or in the jungle; hence their neighbours, the Burghers, though living ostensibly on amicable terms with them, account it pollution to eat with them, or associate with them in their households.

They breed small cows and bullocks, but no buffaloes, and they have a singular and wasteful practice of never drawing the milk from the cow, and allowing the whole to go to the calf, which they kill and eat on feast days.

The total number of Kothers on the Neilgherries, up to 31st December 1847, was found to be—

Males - - - - - - - - - - -	157
Females - - - - - - - - - -	150
Total - - -	307 souls,

including children of both sexes.

The Burghers.

The Burghers, or "Vuddaghurs," signifying literally "people of the North," are supposed to have emigrated to the Neilgherries from the northern part of Mysore or Canara, during a season either of famine or political persecution, and finding their soil and climate good, and their pre-occupiers peaceable and disinclined to molest them, they settled on them, and meeting with success in their early agricultural operations, they soon induced others of their countrymen to follow them, and thus formed the nucleus of the numerous tribe now recognised as the chief and most important portion of the hill population.

Their villages, which have been already described under another head, are scattered all over the plateau of the hills, excepting the portions to which I have already adverted as inhabited exclusively by the Todars, viz. the northern and western parts of the "Todanaad" division, and the north-eastern angle of the "Parungenaad," called "Kodanaad;" and with the exception of these tracts, a small extent of pasture land in the vicinity of four Todarmunds which occur near Coonoor and Hoolicull, and the lands in the possession of the Kothers, they may be said to arrogate to themselves a right of direct proprietorship over the whole of the lands comprising the hill plateau. They admit the fact of their holding it under tribute to the Todars, and render to them the "goodoo," or free-will offering, in acknowledgment of the feudal possession of this tribe; but at the same time they consider the land so far alienated from their possession, that they, its present holders, are empowered to dispose of it to strangers by sale, gift, exchange, or otherwise, which they accordingly do.

They pay the "goodoo" to the Todars resident in their respective "naads," or divisions, who, according to their statements, pay an annual visit, after the harvest is gathered, in to the various Burgher and Kother villages, and demand the contribution in kind, which is rendered according to the circumstances of the inhabitants, the owner of a rich house giving usually 1 cundagum = 20 kollagums; and those less opulent from ½ to ¼ cundagum, according to their means. Sometimes the offerings of the poorer inhabitants are not considered sufficient, and sometimes they refuse to give anything at all, when confusion ensues, the Todars, according to statements made to me by some of the Burghers, entering their houses, and laying them under contribution by force. If such occurences really do take place, it seems likely that the interference of the civil authorities of the district will before long become necessary, either to legalise the exaction of the "goodoo," or to put a stop to it, since, as the law seems at present to stand, a Burgher from whom a Todar might attempt to enforce its payment would have a clear right to the protection of the police, who would be bound, on an appeal being made, to treat the Todar as a trespasser.

Goodoo often extorted by the Todars.

Government interference seems called for.

Such contradictory statements, however, are made by the Burghers, some asserting that they are quite contented to contribute the "goodoo," and have no desire to be relieved from it, while others murmur against its imposition, in addition to that of the Government assessment, that it is most difficult to discover what their real sentiments upon the subject are, or, indeed upon any other in which their interests are, however remotely, concerned.

I may remark, in connexion with the question of the "goodoo," that when the Burghers make transfers of land within the limits of what they term their territory, to European settlers and others, no stipulation is ever made for a contribution to the Todars of a portion of whatever produce may be raised by the purchaser; nor do the Todars themselves ever come forward to urge such a claim, or to remonstrate against such alienations of their rights and property.

Transfers of land by the Burghers.

Many of the Burghers are said to be (for natives) very wealthy, and this circumstance, perhaps, has induced amongst many of them habits of sloth and sensuality, inimical to their moral or physical improvement; but nevertheless, when viewed in comparison with other tribes of Hindoos, they cannot be pronounced pre-eminently indolent or degraded in their habits. They are utterly illiterate, and their ignorance of the accomplishments of reading and writing are transmitted to their children, since schools for their education are unknown amongst them. Their religion is Hindoo, and they are of the Siva sect, their principal deity however being Rungaswamy, whose temple is situated on the summit of "Rungaswamy's Peak," the easternmost point of the Neilgherries, and in addition to whom they also worship many other inferior divinities, male and female.

The burghers, Hindoos of the Siva sect.

There are several subordinate sects amongst the Burghers, the chief of which is that of the "Aroovurs," who assume to be Brahmins, and wear the sacerdotal string over the shoulder; next the Sivacharries, the Wodiars, Kunukars, Burghers, and Toriars, the last being the lowest caste amongst the tribe, and generally the poorest. Their ceremonies of marriage and burial do not differ essentially from those observed amongst the Hindoo tribes in the plains, and such differences as exist are only under the first head, and are chiefly remarkable for their indelicacy, and not worthy of notice. The Burghers are a most superstitious, timid race, perpetually filled with the dread of evil spirits hovering around them, and ever haunted with fear of the "Coorumburs" (a tribe to be hereafter described), to whose necromancy and demoniac influence they attribute all accidents and infirmities which befall themselves, their families, cattle, or crops. To such an extent is this feeling carried, that murders of the most brutal description have been known to be perpetrated upon the unfortunate Coorumburs, for which, although in general it is found difficult to obtain evidence to convict the perpetrators, Burghers have been tried and executed, much to their indignation and astonishment, since the principle inculcated amongst them appears to be, that to sacrifice a Coorumbur (and in some cases whole families of them), through whose preternatural agency disease has been brought into a village or murrain amongst their cattle, is the only way in which the evil can be averted, and the anger of the deity of destruction appeased. Yet, notwithstanding this intuitive horror of their influence over the common affairs of their lives, they regard the

Very superstitious and timid.

Stand in great awe of the Coorumburs.

Coorumburs with the utmost consideration in many other respects, looking upon them as priests, or rather enchanters, whose favour must be propitiated to secure their intercession with the geniuses of good and evil in their favour.

For example, in the spring, when a field is ready for the seed, the work of husbandry cannot proceed until a Coorumbur has been summoned, a kid sacrificed to a goddess equivalent to Ceres, the soil blessed, and the first handful of seed scattered over it by him. In like manner a Coorumbur must drive the first plough a few paces before their work of tillage commences, and at harvest time not a grain or ear is reaped until a small sheaf has been cut by a Coorumbur. For these offices the Coorumburs receive gifts in money and produce, and finding their interest in the existence of these superstitions, doubtless encourage them by all the means in their power which they can safely employ. The Burghers seem to live in great harmony amongst themselves, ruled by their head men and elders. They are fond and careful of their families, and pay great respect to the aged; but in character they appear deceitful, ungrateful, and false.

Their women and children all labour in the fields at the time of harvest, as well as in preparing the ground for seed, and by this combination of industry it is easy to foresee to what a successful extent their farming operations might be carried if a better system of husbandry could be introduced amongst them. The total number of Burghers resident on the Neilgherries in December 1847 has been found by the census to be as follows:—

Males - - - - - - - - -	3,346
Females - - - - - - - - -	3,223
Total - - -	6,569 souls,

including children of both sexes, viz. :—

In Todanaad - - - - - - - - -	2,039
In Parungenaad - - - - - - - -	2,377
In Meykenaad - - - - - - - -	2,153
Total - - -	6,569 souls.

The Eurelas.

The number of this singular tribe is small, amounting only to—

Males - - - - - - - -	225
Females - - - - - - - - - - -	236
Total - - -	461 souls,

including children of both sexes. They are found principally in the eastern part of the hills, where they cultivate the lower slopes, forming the broad deep valleys which run in the vicinity of Rungaswamy's Peak towards the plains. They raise crops of raggee, koralley, shamee, and mustard seed chiefly, but to no great extent, being very improvident in their arrangements, and eating up all their produce at once, without laying any by for the rainy season, when they subsist chiefly on plantains, jack, and other fruits, which they cultivate in patches near their villages, and which thrive in consequence of the lower level on which the Eurelars are mostly settled. They also work occasionally as coolies on plantations, preferring employment in the jungle to working in the field, and being expert fellers of trees, hewers of planks, rafters, &c. They worship Rungaswamy and some other inferior deities, and enjoy the high privilege of tending the temple and idol on "Rungaswamy's Peak," where two or more of their number officiate as priests at the period of the great festival in August and September, when thousands of Hindoo pilgrims flock to the sacred peak from all parts of the adjacent country, with offerings of all descriptions of produce, and occasionally money. They pay kist to Government, according to the nature and quantity of their crops; but they make no offerings to the Todars in the shape of "goodoo," probably from their occupying land rather below the pluteau to which the Todars lay claim. When driven to extremities for food, the Eurelars betake themselves to the jungles on the slopes of the hills, and seeming to have no fear of wild beasts, hunt and destroy sambre, spotted deer, jungle sheep, and other game with great expertness. They also search for bees' wax, which finds a ready sale in the plains; but many lose their lives in this pursuit, through the bears, which are numerous in the eastern part of the hills, and whose fondness for honey often brings them into contact with the collectors of wax.

Are priests of Rungaswamy's temple, on the Peak.

The Coorumburs.

The Coorumbers are not, strictly speaking, a tribe of mountaineers, since many sects of the same people are found in various parts of the plains, especially towards the southward, and those who do frequent the Neilgherries inhabit the lowest slopes, and are perpetually migrating from spot to spot, erecting their little huts usually on grassy patches in the midst of the densest and most wild forests. Those who are met with on the eastern side of the hills are called "Mooloo-Coorumburs" implying "thorny" or jungle Coorumburs, to distinguish them in some degree from the Coorumburs of the west country.

They are small in stature, and their squalid and uncouth appearance, and wild matted hair, might seem to give some cause with so timid a race as the Burghers, for imputing to them the fiendish and preternatural powers with which their superstition invests them. If a Burgher meets a Coorumbur, not summoned at seed or harvest time, in his path, he will fly from him as from a wild beast, and if too close to escape his dreaded glance, he will return home and resign himself to a fate which he deems inevitable, often in fact inducing sickness by the prostration of body and mind which is thus supervened. I may here mention, that a popular belief exists that the Coorumburs have an equal proprietary right in the soil of the Neilgherries, having come to them at a period coeval with or antecedent to the migration to them of the Todars. The Coorumburs cultivate some land on the lower slopes of the hills, and raise small crops of dry grain, but they depend for their supplies chiefly on the fees in kind which they receive from the Burghers for the offices performed by them in consecrating their crops and seed, as has been already described in treating of the Burghers. Those, however, who are met with in the forests on the western slopes of the Neilgherries are more industrious, employing themselves chiefly in felling timber for the sawyers and contractors, in making baskets, and, to a small extent, in cultivation.

These Coorumburs appear, for the most part, to come from Malayalum, where they exist in a state of slavery to opulent natives, who claim their persons as their property, a claim, however, not much regarded. The Coorumbers, from their almost always residing amongst the forests, have a considerable acquaintance with the properties of medicinal herbs, gums and roots, and hence often effect cures of simple diseases amongst the Burghers and others, when called in to disenchant a member of a family supposed to be bewitched. This success is of course attributed to preternatural agency, and a failure in their mode of treatment of a disease is usually set down to its baneful exercise, a result which often leads the officiating Coorumbur into trouble. As has been already remarked, it has been found impossible to obtain any return of the number of this tribe, but it must be very inconsiderable.

Employment.

In the preceding description of the different tribes inhabiting the Neilgherries, their habits have been sufficiently set forth to explain the nature of the employment or occupation which each pursues. Following, however, the argument of this synopsis, it may be necessary under this head briefly to recapitulate them.

The Todars.

Their occupation is purely pastoral, their only manual labour being the milking of their buffaloes and converting portions of the milk into butter and ghee. They let their herds loose during the day to wander about, almost always unattended by a herdsman, to the annoyance of travellers on the public roads, and but for the caution observed in approaching these animals, to their great danger.

They life they lead is eminently a most idle and useless one, involving the performance of no offices, and the undertaking of no duties, which tend in any way to the benefit of the community at large. Especially marked by nature as a race upon whom labour demanding great physical exertion and bodily prowess should devolve, they are found abjuring the performance of manual labour of any kind, subsisting upon the hard-won earnings of others, and acting no part in the great work of social duty and improvement which society demands that all its members should co-operate to advance.

The Kothers.

Their occupation is both agricultural and mechanical.

They are tolerably good workers in iron, and execute carpenters' work in a rough way. They tan ox and buffalo hides, and make baskets; and their women manufacture the only earthen pots or chatties produced on the hills.

The Burghers.

Their occupation is solely agricultural, and their numbers having of late considerably increased, there is always a superabundance of hands available for employment, as carrying coolies and out-of-doors labourers, when their own crops are either in the ground, or reaped and stored, which constitutes them the most really useful tribe on the hills.

The Eurelars and Coorumburs.

Their employment is agricultural, and also in a measure vagrant, since, lacking sufficient energy or industry to draw from the soil the utmost of its productive powers, they subsist between harvest and harvest upon whatever they can extract from the natural resources of the forests through which they wander.

Languages.

The Neilgherries being situated within the limits of the Coimbatore district, Tamil is the language employed in the public departments, and in the bazaars and other resorts of the natives from the low country; but amongst all the hill tribes, Canarese is the colloquial. The Todars have a language peculiar to themselves, but they communicate with the Burgher and other tribes in Canarese. The Todar language has a singular accent, and a quaint original style, and seems to bear no analogy whatever to that spoken by any other race of natives in Southern India. The Coorumburs have also a peculiar dialect of their own, but it seems to be based on the Canarese.

Condition.

Under this head a very favourable report may be made, as with the exception of the two inferior tribes, the Eurelars and Coorumburs, who from their improvident and vagrant mode of life are often in a state of great destitution, all the hill tribes live in comparative comfort and affluence. This is as to their physical condition; but in regard to their moral state the aspect is not so favourable. The accomplishments of reading and writing seem almost entirely unknown amongst them, while their morals are tainted by the arts of dissimulation, cunning, and falsehood, which seem to be instilled into their minds at an early age. Superstitious

Health and diseases.

Small-pox a prevalent disease.

stitious to a degree almost incredible, and prejudiced against all innovation and improvement, I fear they offer but a barren field to the German missionaries who have established themselves on the Neilgherries to labour amongst the hill tribes, and who are endeavouring to form village schools, in the hope of inducing parents to send their children to them for instruction in their own tongue. Upon this point it is not easy to obtain correct information, as all the natives have an insurmountable aversion to entering a hospital, and though they value and respect the opinion of a medical officer, they are not found to come voluntarily forward to seek assistance and advice. From observation in their villages, and of the coolies and others who come to the houses of European residents for employment, we are led to conclude that all classes of natives located on these hills, whether of high or low caste, aborigines or modern settlers, enjoy the most robust health, showing that the pure atmosphere and invigorating climate have the same genial effect upon the native as upon the European frame and constitution. The most prevalent diseases amongst the Burghers, who may be considered the mass of the hill population, are small-pox, occasionally fever, and an affection of the eyes resembling ophthalmia. The first of these is however the only one which can be called common amongst them, and is the greatest scourge by which they are visited, and as vaccination is not practised, the disease often commits fearful ravages in their villages, carrying off whole families in a brief space of time. There is no doubt that the mountaineers would willingly take advantage of the existence of a vaccine depôt, if one were to be established on these hills; and as the disease certainly seems local, and peculiarly virulent on them, and as it is totally impossible for two medical officers stationed in Ootacamund to quit the scene of their constant and extensive duty amongst the sick officers and their families resident there, to introduce and practise vaccination in the Burgher districts, it would be a great blessing to the district if such an institution could be formed in it, and be the means unquestionably of saving many lives.

Health and diseases of troops, with the presumed causes of healthy or diseased state, and the treatment (not strictly medical) found to be useful.

The impending measure for the location of European troops on these hills will, it is to be hoped, before long furnish striking and favourable evidence upon this subject. At present it can only be inferred that the beneficial and renovating effect which even a few months' residence on them produces on the enfeebled constitutions of officers, must in an equal degree be exerted on the condition of the private soldiers who may be sent to them; and that not only physically, but morally, since the constant out-of-doors employment and recreation which they would be enabled during the greater portion of the year to find and enjoy, would remove them from the influence of that most demoralising of all agencies, the dull, monotonous irksomeness of the almost constant confinement to barracks, and of the life of utter idleness which they are compelled to in the plains. To the unfortunate wives and children of the European soldiery the effects of this wise measure will produce incalculable benefit, for it needs only to consult the tables of mortality in the records of almost any European regiment serving in the plains to perceive that upon them, and the latter especially, the hardships and sufferings of a barrack life there fall with aggravated cruelty. Under the discipline of a good school, and with constant employment found for them, relieved by the healthful exercise which will always be within their reach, it is not too much to say that hundreds of lives may be annually saved, many too, possibly, to be devoted to the service of the State in the persons of useful and well educated servants. I think that on the first arrival of fresh troops on the hills, much care and attention will be necessary to adapt the habits of the men to the entirely new climate (comparatively speaking) in which they will find themselves, avoiding very early and very late parades, and making all guards and sentries put on great coats before sunset, and wear them till after sunrise, and generally keeping the men out of the influence of the night air as much as possible. The site which I have had occasion to recommend for the new cantonment, in the valley of Jakatulla, is situated at an elevation of 6,100 feet above the sea, and enjoys a most temperate and agreeable climate; but the rapid change of temperature which follows the withdrawal of the sun's rays there, as in all other parts of the hills, demands care and precaution, especially in the case of men whose constitutions, and liver especially, have become injured by long residence in the low country.

Men suffering from dysentery will, with care, do well in Jakatulla, at all events in the dry weather, if too much exposure to the sun and to the dry easterly winds is avoided. Indeed there appear to be few diseases contracted in the plains which are not, unless too far advanced, speedily cured here, speaking of the hills generally, with the exception of liver complaint, which, if abscess has already formed, usually assumes a more aggravated form, through the cessation of the action of the skin, after a short residence, and compels the patient to proceed to sea as the only alternative.

COMMERCE.

Manufactures.

There are no manufactures carried on on the Neilgherries, unless a few earthern pots made by the Kothers, and principally at a village near Soloor, to the westward of Mootenaad, may be called by that name. From the great command, however, of water power all over the hills, and especially near the summits of the passes or ghauts, many of the products of the plains requiring to be wrought by heavy or steadily-driven machinery, such as cotton for yarn, oil seeds, &c., might, no doubt, be profitably converted from the raw state on the Neilgherries, or on their lower slopes. The wheat raised on them might also be ground into

Appendix, No. 5.

into flour by machinery turned by water very economically; and it seems strange that at the present time, although a large quantity of flour is consumed in the settlements, and considering how many Europeans, who must have some knowledge of ordinary machinery, are resident on the hills, not one flour-mill is in existence, all the wheat being ground by manual labour in the common ancient native mill of two circular stones, the lower fixed, and the upper one revolving.

Capital employed.

No capital to any extent is invested at the present time, except in mulberry and coffee plantations, the amount of which I have no means of ascertaining, and in house building in the cantonment, which is not considerable. The return on the latter investment appears to be about 15 per cent.

Imports.

The following articles are imported into the hill district from the adjacent provinces of Malabar, Mysore, and Coimbatore: cotton cloth, salt, tobacco, sugar, turmeric, oils, arrack, salt fish, cocoa nuts, almonds, dried fruits, sheep, bullocks, poultry, gunpowder, sulphur, lime, furniture, artificer's tools, gram, raggee, chollum, betel nut, ghee, spices, limes, native peas; and of European articles, wines and spirits, wearing apparel, cambrics, woollens, flannels, muslins, shoes, books and stationery, earthenware and glass, hardware, groceries, beer and porter, candles, and all kinds of supplies for the table.

To this list, strange to say, is to be added wheat, which is imported to some extent from Mysore, where it is cultivated on the higher steppes of the table land. The bakers buy it because it is cheaper than the hill wheat, although not nearly so good, and mixing it with the corn purchased from the burghers, turn it to profitable account. There is generally a difference of three to four seers per rupee in the prices of the Mysore and of the hill wheat in favour of the former, in spite of the extra cost of transit to the cantonment market up to the Seegoor Ghaut, a circumstance which tends to support the idea of the misappropriation and mismanagement of this district through the ignorance and apathy of the hill cultivators.

Exports.

The exported articles are coffee, silk, potatoes, barley, hides, opium, wax, dammer or resin, and wheat, which, being bartered by the burghers for low country necessaries with the itinerant traders, thus becomes an article both of import and export.

No statement can be furnished of the quantities of the above-mentioned goods which are imported or exported, since, in consequence of the transit duties having been abolished, they pass through no office in which their amount might be registered.

Exchange.

Money is readily obtainable for bills on Bombay or Madras from the native merchants, who, having disposed of their goods on the hills, are anxious to remit the proceeds for re-investment. Hence cash on such bills is generally obtained at par, or at the utmost at 1 per cent. discount. No other exchange operations are carried on in the settlement, all business with England being transacted through agents at Madras or Bombay.

Weights.

The weights in use in the bazaars of the three settlements are, the maund of 25 lbs. avoirdupois, the viss of 2 lbs. ditto, the pound of 40 rupees or tolas weight, the seer of 25 rupees or tolas weight.

The burghers sell all their produce by measure, excepting opium, which they rate at so much per seer of 24 rupees' weight, being one rupee under the seer of the bazaars.

Measures.

The bazaar measures are the seer, half seer, and quarter seer in use all over the country. The burghers sell their grain by the " kolagum," the contents of which, when heaped up, is about 226 cubic inches, or somewhat more than two seers.

Coins.

The coins issued from the Honourable Company's mint are the only monies in circulation on the hills, viz., rupees, half and quarter rupees, two annas, quarter and half annas, and pice.

It is supposed that a good deal of coin goes out of circulation in the district, owing to the burghers and others either hoarding it by burying, or getting it converted into ornaments.

Banking operations.

A bank was recently established in Ootacamund, but it failed in consequence, I believe, of the ignorance and want of standing of the managers. But considering that there is almost always a large community of Europeans, chiefly in the service of Government, congregated at the station, together with a not inconsiderable number of native traders possessed of capital, it seems obvious that, if conducted upon proper principles, and by parties of mercantile respectability and intelligence, such an establishment could not fail to prosper, and to prove a source of great convenience and benefit to the public.

Lending and borrowing.

Money is lent in the bazaar amongst the natives at the usual usurious rate of interest, 2 per cent. being given for loans, with security of jewels or other convertible property, per month, and 3 per cent. per month for money lent on personal security only.

Modes of transit and communication.

1. By land.

The Neilgherry district communicates with the neighbouring provinces by means of six passes or ghauts, the roads in which have been cut and kept in repair at the public expense, with the exception of one, the " Manaar" or Soondaputty" Ghaut, which has gone out of general use. The only one of these passes which is ascended by wheeled conveyances is the " Seegoor," the mode of transit on all the others being by bullocks, coolies, and, to a small extent, by asses. By the " Seegoor" Ghaut, however, cart loads of 1,000 lbs. weight, or two candies, are brought up, an additional pair of bullocks being required to help the cart over the steepest parts of the ascent.

Appendix, No. 6.

Appendix, No. 6.

PAPER delivered in by Rev. *J. Mullens*, 8 July 1858.

PETITION of PROTESTANT MISSIONARIES residing in or near *Calcutta*.

To the Honourable the Legislative Council of India.

The Petition of the undersigned Protestant Missionaries residing in or near *Calcutta*.

Respectfully Showeth,

THAT your petitioners desire to express to your Honourable Council the satisfaction and gratitude with which they observed the introduction into your Honourable Council, on the 22d December 1855, by the Honourable J. P. Grant, of a Bill to improve the law relating to sales of land for arrears of revenue in the Presidency of Bengal; and their earnest hope that the leading principles and provisions of that valuable and important measure may be speedily embodied in a law.

2. That your petitioners beg leave to submit to your Honourable Council their views on the evils which that Bill is designed to meet; and generally, on the position of the cultivating classes in this Presidency; and they respectfully but earnestly solicit the favourable consideration of your Honourable Council to their representation of the claims of those classes of the community who are unable effectually to plead for themselves.

3. That your petitioners recognise in the perpetual settlement an important boon to the whole Presidency, in its limitation of the land tax, and they regard that settlement as the probable foundation of great national prosperity. But in the practical operation of the system, your petitioners observe two distinct classes of evils.

1st. The under-tenures are insecure; the rents of the cultivating classes are capriciously varied; and the interests of those classes are virtually unprotected.

2d. The zemindars are armed with extraordinary and excessive powers.

4. That your petitioners believe it to be notorious that the intentions of the laws for securing leases to the tenants, for securing them receipts on their payments of rent, for limiting within just bounds the rents reserved in leases, and for checking the custom of exacting abwabs and other arbitrary additional charges and cesses, are commonly frustrated and defeated. On the other hand the power of the zemindars (as recognised in Regulation VII. of 1799, Section 15, Clause 8) to compel the personal attendance of their tenants, for the adjustment of rent and other purposes, is practically, in many parts of the country, a substitute for the regular and ordinary processes of the law, and is virtually the subjection of the tenants to a state of slavery. And, further, this evil is in many instances greatly aggravated by the estates being held in co-tenancy, so that several shareholders, who are often in a state of conflict, equally exercise an arbitrary and unrestrained authority.

5. That while this law thus presses severely on the tenants, your petitioners observe that, from the increased cultivation of the soil, and the greatly increased value of its produce, the zemindars, who were primarily regarded simply as collectors of the land tax or farmers of the revenue, entitled to a fair profit on the returns, derive now a revenue greatly in excess of the revenue which they pay to Government. And thus, contemporaneously, while the zemindar has been rising in wealth and power, the tenant has been sinking into penury and dependence, subject to illegal and exhausting exactions, harassed by contending proprietors, and oppressed by the exercise of extra-judicial powers.

6. That your petitioners submit that this result was neither designed nor contemplated by the perpetual settlement. By that arrangement certain great advantages were secured. A moderate assessment was levied on the land in substitution for uncertain and unlimited demands; and an important class in the community, who were regarded as foremost in intelligence and influence, were placed in a position of responsibility, usefulness, and honour. But these zemindars have, since that time, not only acquired by law the power of enforcing their demands by *ex parte* proceedings, commencing with the arrest and imprisonment of the tenants, but have also received the sanction of the law, as already stated, to their custom of enforcing the personal attendance of their tenants at their pleasure; and both these powers, but especially the latter, your petitioners believe, they often greatly and shamefully abuse.

7. That in the practical and extended development of this system, it is manifest that the tenants suffer from a lax administration of laws passed for their protection; that they are oppressed by the execution of other laws, which arm the zemindars with excessive power; that they do not share with the zemindars in the advantages derived from the development of the resources of the country; that the profits thus monopolised by the zemindars are already incalculably valuable; and that, year after year, the condition of the tenants appears more and more pitiable and hopeless.

8. That your petitioners are compelled to add that other evils increase the wretchedness of the condition to which a tenant is thus reduced. The village chowkeydars are the servants of his landlord; the Government police are corrupt, and he cannot vie with his landlord in purchasing their favour; the courts of justice are dilatory and expensive, and are often far distant from his abode, so that he has no hope of redress for the most cruel wrongs; and he is frequently implicated in affrays respecting disputed boundaries, in which he has not the slightest personal interest. Ignorant of his rights, uneducated, subdued by oppression, accustomed to penury, and sometimes reduced to destitution, the cultivator of the soil in many parts of this Presidency derives little benefit from the British rule, beyond protection from Mahratta invasions.

9. That your petitioners believe that, under these circumstances, the interference of your Honourable Council is urgently demanded by justice and benevolence; and they view the present sale bill as an important step in the right direction.

10. That the objections of the zemindars to the measure appear to your petitioners entirely futile. It appears to your petitioners unquestionable, that your Honourable Council may justly protect the tenant, provided only it leave the zemindar ample means of paying the Government revenue, and a fair profit on his collections. The elevation of this zemindarry class, by extraordinary protective and fostering measures, is not a policy that can be wisely or equitably pursued, to the sacrifice of the great mass of the people.

11. That your petitioners confidently submit to your Honourable Council, that the zemindars have not fulfilled the just expectations of the State, or the conditions connected with the perpetual settlement. The extension of cultivation in Bengal, for which they claim credit, your petitioners ascribe, not to the enterprise, capital, or public spirit of the zemindars, but to the great increase of population during the last hundred years of domestic peace. Far from accelerating the progress of the country, either in civilization or material prosperity, the zemindars have generally checked the accumulation of capital by their tenants. They have not stimulated exertion by their own example, nor encouraged confidence by generosity and kindness. On the contrary, by arbitrary exactions, they have repressed the industry of their tenants, and by the exercise of their excessive powers under the Regulation VII. of 1799, they have destroyed every vestige of their independence.

12. That your petitioners are well aware of exceptions. They know that there are powerful middle-men, indigo planters and others, who have resisted and struggled with the zemindars, and against whom it is impossible to enforce the extraordinary powers which are mercilessly wielded against the poor. But your petitioners desire to be understood as speaking of the great mass of the cultivating classes constituting a large proportion of the entire population; and on these your petitioners believe that the oppressions of all the various grades of superiors, both middle-men and zemindars, have been practised, and are still practised, with lamentable effect, partly with legal sanction, and partly without it, but entirely, in nearly every case, without the slightest hope on the part of the tenant of legal redress.

13. That, in respect of the exactions of the middle-men, your petitioners believe that a considerable part must be ascribed to the uncertain tenures of that class. Having no permanent interest in the soil or the people, they are seldom the protectors of their dependent cultivators. If fixity or permanence of tenure were established, then immediately, as your petitioners believe, the tendency would be to establish just relations between the landlord and the tenant from the highest to the lowest; and that principle, your petitioners therefore earnestly desire to see adopted and carried out. At present, it is infringed, in the first instance, by the right of the Government to sell the land for arrears of revenue, and thereby avoid the under-tenures with some few exceptions; and then, still more, by the entire absence of protection to the tenants, and the undefined relations of landlord and tenant throughout the Presidency.

14. That in connexion with this subject, the Calcutta Missionary Conference, in the year 1852, requested one of its members, well acquainted with the subject, to prepare a paper on the redemption or commutation of the land tax, and that document was published and circulated both in India and in England. Subsequently, the Missionaries of Calcutta, in their petition to Parliament in the same year, prayed for a measure having the redemption of the land tax for its object, with the view at once to induce capitalists to invest in land, and to enable small holders to acquire permanent freehold rights.

15. That your petitioners have annexed to this petition, a copy of the paper referred to, and respectfully submit its statements and arguments to the attention of your Honourable Council.

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16. That your petitioners now find, with great satisfaction, that the Board of Revenue have unanimously approved of the 15th Section of the present Bill, which provides that any recorded proprietor or co-partner of an estate, may, by deposit of Company's paper, secure his estate from sale for arrears of land revenue; and have distinctly recognised the expediency of permitting the complete redemption of the land tax.

17. That your petitioners anticipate, from the adoption of the principle involved in that Section, a powerful stimulus to exertion for the purpose of securing freehold rights; and as the result of the possession of those rights, the creation of that spirit of freedom which has always been the spring of enterprise, emulation, and social progress.

18. That your petitioners submit that the terms of the 15th Section may be safely extended, by a provision for the payment of a definite rate of purchase money, (which your petitioners apprehend might be 20 years' purchase of the recorded land tax,) in consideration of which, that tax might be held to be absolutely redeemed for ever; and your petitioners further suggest, that certain encouragements to such redemptions might be granted, in the form of partial remissions of arrears; an official survey of every estate redeemed, with an official certificate and record of boundaries; and a public notification, in the *Government Gazette*, of the names of all who avail themselves of this law.

19. That your petitioners believe that it is the interest of the Government both to facilitate and to encourage such redemptions, not only because an immediate saving will follow in respect of a reduction of the establishments for collecting revenue, but also because they will introduce a new and highly beneficial element into the landed system.

20. That your petitioners desire to express their conviction of the necessity for the provisions contemplated by this Bill, for the protection of under-tenures by registration.

21. That, in respect of ante-settlement tenures, your petitioners submit that the security provided by the Bill is simply an act of justice and good faith, required by the perpetual settlement; and that, as the proposed registration will be voluntary on the part of the talookdars, no satisfactory objection can be urged to it.

22. That, in respect of some tenures (both ante-settlement and post-settlement tenures), your petitioners apprehend that they largely partake of the character of English copyholds, but with additional disadvantages attending them; and your petitioners submit that all the principal reasons which have been stated for the enfranchisement of those tenures in England, apply with greater force in support of the proposition for protecting and fixing tenures of the same nature in Bengal.

23. That, in respect of post-settlement tenures, your petitioners understand that the intention of the Bill is to protect, by registration, all which have been, or may be hereafter created *bonâ fide*; that is, on which the rent reserved is fairly and duly apportioned to the entire land tax of the estate.

24. That it is objected to this proposed law, that the inquiry into this apportionment will be attended with impracticable difficulties.

25. That your petitioners acknowledge that such might be the case, were the total land tax of the estates exactly, or nearly exactly, equivalent to their total rental. But, in fact, it is notorious that the rental of zemindaries is ordinarily more than double their total land tax or sudder jumma; and in all such cases it appears that it would be difficult to err. Any careful collector inquiring into a lease could, in such circumstances, form a sufficiently accurate estimate of the fairness of the rent reserved—the sole object of his inquiry being its proportion to the sudder jumma or land tax of the estate, and the aggregate value of the estate being, as already stated, so great, as to afford a large margin to cover all probable mistakes. Placing the case on the lowest ground, your petitioners submit, therefore, that fraudulent leases, sanctioned and registered by the collector (created, too, in the face of the provision which renders them liable to be annulled and avoided, at any time within 60 years, on the ground of fraud), are not likely to be so numerous as seriously to endanger the Government revenue.

26. That your petitioners feel it to be unsatisfactory to argue the question on this ground, or to consider, in detail, the probable number of such frauds, or their united ultimate effect on the aggregate land tax. They respectfully submit that your Honourable Council may be expected to rely, for the security of the land tax payable to Government under the perpetual settlement, not on the exact accuracy of the collectors and ameens, but on the gradual improvement of the country and development of its resources. In most parts of Bengal the assessment was originally moderate; the progress of the country has rendered it light; and, with a further advance of society and a further rise in the produce, the fixed Government revenue will be trifling, compared with the value and extent of the cultivated soil. A country which, like Bengal, already feeds upwards of 40,000,000 of people, already exports annually produce to the value of at least 15,000,000 sterling, and already receives annually upwards of 5,000,000 sterling in bullion, as the balance of its trade, after paying the greater part of India's tribute to England, and in which there are still boundless resources undeveloped, cannot long feel as a burden a land tax of three millions and a half.

27. That your petitioners believe that no part of that tax will be lost through the operation of the present bill; but if some hazard is inevitable, they respectfully inquire, if fear lest part of this tax may possibly, under this Bill, be sacrificed by some fraudulent leases remaining undetected in their creation, and undisturbed during the whole succeeding 60 years, should be regarded as a sufficient bar to the enactment of a measure which not merely gives fixity and permanence to all under tenures, old and new, and immediately encourages all improvement, but also affords the promise of an accelerated progress in wealth and prosperity, in the course of which all landlords may be expected to liberate their land altogether, without loss to the Government?

28. That when your petitioners inquire for the alternative if this Bill be rejected, they find a proposition to establish and fix under-tenures, but subject in the ultimate contingency of a Government sale to disturbance and re-settlement, a proposition which, in their judgment, differs from this Bill entirely in spirit and effect. The one condition and qualification annexed to this proposed amendment, must, they fear, check the operation and expansion of the system which they desire to see established, and tend to perpetuate the plague of doubt and hesitation, which is now effectual in restraining the investment of capital in land and development of the resources of the country. It interposes a possible partial loss of the Government revenue in a doubtful contingency, as an impediment to the destruction of a vicious system, which is ruinous to a large portion of the population and crushes them into degradation and misery.

29. That your petitioners regard another objection to this Bill, namely, that it will tend to the multiplication of small holdings as altogether illusory. The existing system certainly has that tendency, because it checks the accumulation of capital in the farming classes; but the system contemplated by this Bill, if liberally expanded and carried out, will tend to the increase of wealth, and this, with other civilising causes, must lead to the investment of continually larger amounts of capital in land, and thereby to the consolidation of estates and the absorption of improvident and pauper proprietors.

30. That with these views your petitioners look with anxiety and earnest desire for the enactment of this proposed measure, but they are bound to state that they wish also to see additional measures carried with it.

31. That your petitioners believe that they have truly and accurately represented the condition of the cultivating classes. Your petitioners believe it to be true that, superadded to the evils they endure from a corrupt and inefficient police, and an administration of civil and criminal justice which confessedly requires extensive improvement, they are liable to be constantly harassed by the conflicting and unsettled claims either of contending shareholders of joint estates, or of contending neighbouring proprietors; by the severe laws of distraint and arrest; by the power of their superior landholders, whether zemindars or middle-men, to compel personal attendance at their pleasure; by illegal exactions; by the unfixed nature of their tenures; and by the prevalent custom of refusing both leases and receipts.

32. That for this class your petitioners believe themselves called upon to speak. Your Honourable Council receives petitions from many of those who consider their interests affected by this and other measures, particularly zemindars and indigo planters, and their representations reach the British Parliament. But the mass of the people, the cultivators of the soil, and those directly or indirectly dependent on them, are usually unheard and unrepresented. Yet your petitioners believe that the case of these numerous classes is such as urgently to demand consideration; and your petitioners, influenced by the desire that the British Government may be honourably distinguished in the blessed work of "showing mercy to the poor," and affected by a deep sense of the social wretchedness prevalent in the land, and the fearful obstacles which it presents, alike to the progress of enlightenment and truth, and the advancement of the material interests of the country, are constrained to appeal earnestly to your Honourable Council; and to entreat your Honourable Council so to legislate, as to afford hopes of new and better days; to secure, with the blessing of God, the public tranquillity, which is now endangered through the sufferings and the irritation of the people; and to lay the foundations of general prosperity and freedom.

33. Your petitioners therefore pray your Honourable Council to pass the Bill to improve the law relating to sales of land for arrears of revenue in the Presidency of Bengal, and to pass such other measures as shall be necessary for the emancipation and protection of the cultivating classes.

And your petitioners will ever pray.

(signed) *Alexander Duff,*
And 20 other Signatures.

Appendix, No. 6.

APPENDIX referred to in the foregoing Petition.

On the desirableness of Commuting the Government Land Tax.

IT has long been the settled conviction of many missionaries labouring in Bengal, that the present condition of the rural population of that province is not only a great impediment to the diffusion of Christianity in general and to the development of a Christian character on the part of converts in particular, but also a social and political evil of great and growing importance, which, unless checked in time, must ultimately result in the universal prevalence of pauperism, servility, duplicity, and indolence. The causes to which the misery and degradation of the peasantry must be attributed are manifold; such as the long continued prevalence of Hindoo idolatory and Muhommadan oppression, of early marriages and the prejudices of caste; also the innate defects of the national character, and the density of the population. Causes like these cannot well be remedied by legislative enactments; but there is another which appears to admit of such a remedy, namely, the mutual relation between the zemindars and the ryots, to which the alarming deterioration of the peasantry must be in a great measure attributed, whilst at the same time it places the zemindars in a position which is calculated to prolong the evil to an indefinite period, without any prospect of improvement.

It would, no doubt, be an injurious as well as a difficult undertaking to attempt an abrupt and total abolition of the present zemindary and ryot system. The best means of providing a remedy for the actual state of things appears to be the application of a new principle to the tenure of land, a principle of such a nature that it should operate gradually and almost imperceptibly, and yet produce a beneficial change in the public mind, by leading the rural population to hope for that amelioration of their circumstances, of which at present they can see no prospect. It has long appeared to some men who have attentively considered the subject, that the principle of freehold tenure would be of such a nature, and that it might be introduced gradually, if an Act passed, allowing the commutation of the land-tax; in other words, permitting capitalists to purchase estates, as opportunities might present themselves, by paying down, once for all, the capital which is represented by the Government land-tax; with the understanding that estates, thus purchased, should never again be subjected to the land-tax. The rate at which the capital might be calculated could easily be fixed by a legal enactment. Supposing, for instance, that the land-tax represents an interest of five per cent., the capital would be equal to 20 years' purchase. Or should it be thought that five per cent. is too low a rate of interest for India, the capital might be declared equal to the amount of 16 years' purchase.

The capital represented by the land-tax of Bengal is immense, amounting to more than a hundred millions sterling; and the number of capitalists ready to avail themselves of the contemplated arrangement would naturally be very small, especially at first. It is clear, therefore, that the operation of such an arrangement would be very gradual, and could not be productive of dangerous consequences.

The benefits would probably be considerable. The *bonâ fide* proprietors of freehold estates would naturally take a deeper interest in the profitable cultivation of the land and the general improvement of the neighbourhood, than can be expected of zemindars, whose tenure of estates is always more or less precarious, because if ever they fail to make the quarterly payment at the collector's office within the appointed time, the estate is put up to auction the next day, and disposed of to the highest bidder. The relation between *bonâ fide* landlords and tenants would be much less complicated, and therefore much less productive, of animosities and disputes, than that between zemindars and ryots. Long leases might be given by a landowner, or portions of the estate sold out and out; and thereby a manly spirit of independence infused into the peasantry, to which at present it is an utter stranger. And if the boundaries of an estate, when thus sold out and out, were clearly defined by competent authority, the principal plea now advanced by zemindars in defence of their system of keeping up a body of clubmen would be neutralised; for they generally profess to hire these men, in order to settle, by physical force, the boundaries which the law has hitherto left unsettled in many parts of Bengal.

It is very probable that a class of landholders, of a much better character, would be brought into existence.* At present, to become a landholder or zemindar is tantamount to involving

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* The circumstances under which the writer originally drew up this paper, compelled him to confine his remarks exclusively to one subject. But he embraces the present opportunity for throwing out a few hints on some collateral topics. If Government really wish to encourage honest and conscientious men, and especially Europeans, to purchase estates in Bengal, the following improvements, among others, will be indispensable:

1. A comprehensive system of registration, the working of which should be entrusted to really able men. All documents relative to landed property should be registered; and when thus registered they should be regarded as authentic. Such a system has long been contemplated, but, in order to be efficient, it should be accompanied by—

2. A thorough survey of the country, especially for the purpose of ascertaining the numberless disputed boundaries of estates. An able Government officer once remarked, in a conversation with the writer, that "the reason why the lower provinces are called settled, must be, because everything in them (concerning boundaries) is unsettled, just as *lucus* is so called a *non lucendo*."

3. A "statute of frauds" should be enacted, declaring the prevalent practice of *benami* (anonymous or pseudonymous) possession to be illegal. The ostensible owner should be treated by the law as the real owner

involving one's self in endless litigation, besides running a great pecuniary risk. The purchaser of an estate must be prepared to contest numerous law suits with his neighbours, to keep in his pay a body of clubmen sufficiently powerful to overawe theirs, and to make two or three quarterly payments to the collector, before the estate has yielded him any income. It is owing to these difficulties that so few English capitalists have laid out their money in the purchase of land in Bengal, and that the few who have done so do not differ more in their character from native zemindars. These difficulties, again, have proved a great obstacle to persons who have wished to form Christian settlements, and from the nature of things they must continue a great hinderance to such designs. It is supposed that the introduction of the principle of freehold tenure would be very beneficial in this respect.

A commutation of the land tax would not deprive the Government of any part of its revenue. The capital paid into the Treasury by purchasers might be laid out in a number of ways equally productive. It might be applied to the reduction of the public debt, or to the construction of canals and railways, on which tolls might be levied; not to mention ordinary roads and bridges, in which Bengal is still so lamentably deficient.

There would, probably, be found some difficulties, at first, in the working of such a plan as that which is here suggested, but it is supposed that these would not prove very serious, much less insurmountable. The greatest difficulty, perhaps, would be that of dealing justly with the fair claims of those ryots, who hold what is called *paitrik* (ancestral) land. It would perhaps be desirable to fix a rate at which such ryots might redeem their land from the zemindars.

Whatever may be thought of this particular proposal regarding the commutation of the land tax, the following considerations will show that a change in the present system is desirable, or rather imperatively required.

The rent or land tax which the ryots have to pay to the zemindar amounts on an average to about two rupees per beegah, or taking the beegah to be one-third of an English acre to about 12*s.* per acre. Those who hold only *paitrik* land are more favourably circumstanced, because the rent for that does not generally exceed one rupee per beegah. But most of those ryots who hold *paitrik* land also hold land of a different description, for which they have to pay at the higher rate. And the rent for land which is fit for gardening or for being built upon, is higher than two rupees; so that this rate may fairly be considered as the average. It constitutes about 40 per cent. of the gross return in a good year. A beegah of land in a favourable year yields about five rupees. If the two rupees for rent are deducted, there remain three, which the ryot can call his own. It is believed that 12 beegahs is about the average amount which a Bengali ryot holds. The proceeds of that, after deducting the rent, amount to 36 rupees per annum. Out of this sum he has to provide food and clothing for himself and family, to keep his houses in repair, and to maintain the necessary stock of cattle and implements, besides paying for extra labour during the seasons of ploughing and reaping. Now, it is barely possible for him to provide food and clothing with three rupees a month; but the means of meeting all other expenses must be derived from other sources, such as fishing or job-work of various descriptions. All such sources are precarious and almost invariably insufficient. The consequence is that the ryot is compelled to incur debt. The most common rates of interest at which he can borrow money from the zemindar or the money lender, are three and four pice for the rupee per month, which are respectively an annual interest of 56 and 75 per cent. When about to plough his land, he is usually under the necessity of obtaining an advance of seed corn from the zemindar, to whom he has to re-pay it at the season of harvest with 50 per cent. interest, or for the twelve month with 60 per cent. interest. In this way he becomes more and more deeply involved in debt. And yet the basis of this calculation, five rupees as the gross return of a beegah, is, if anything, too high rather than too low. In the majority of years the amount realised is considerably less; for storms, and inundations, and droughts, and murrain among cattle are calamities of frequent occurrence in Bengal; and seasons of sickness in the family are an additional source of difficulties.

The position in which the ryot stands to the zemindar is disadvantageous to both parties; but certainly more detrimental to the former than to the latter. The payment of rent for the current year, or of arrears, the repayment of advances of various kinds, and the payment of interest, constitute so many different heads of accounts between the two parties. Many estates are the joint property of a number of zemindars, of whom one may be entitled to one-half, another to a quarter, a third to the twelfth or sixteenth part of the proceeds. In such cases it is the usual practice for each shareholder to maintain a separate agency, and to keep separate accounts, so that every ryot has transactions with a number of landlords.

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owner to all intents and purposes. The system of secret trusts, now prevalent, is a gigantic fabric of iniquity and fraud, to which the world probably cannot furnish a parallel.

4. The village police should be reformed. Its present state is infinitely worse than a state of utter inefficiency; it is so bad that one can scarcely venture to describe it.

A subdivision of the judicial districts is required. The scantiness of the means of communication throughout Bengal greatly increases the obvious disadvantages arising from the overgrown size and population of the present districts. Thousands of villages are situated at a distance of two or three days' journey from the magistrate's or judge's office.

The writer believes that the introduction of all these and similar reforms would be facilitated, and their efficiency increased, by the ~~commutation of the land-tax~~.

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lords. In the majority of districts the zemindars give written receipts for the rent; but even there the ryot does not always find it an easy matter to obtain such receipts; and in some localities the zemindars never give them. It must be acknowledged that in innumerable cases the ryots are not only backward, but positively unwilling to pay; and the multiplicity or intricacy of their accounts, together with the fear (frequently well-founded) of being overcharged, constitutes an additional and very prolific source of disputes, which most commonly terminate in favour of the zemindar, although it is not denied that they occasion considerable loss to him also.

The position assigned to zemindars by the law is very peculiar. They are neither *bonâ fide* landowners, nor *bonâ fide* fiscal officers appointed to collect the land-tax. Perhaps the nearest approach to a correct description of their position would be to say that they are landowners, whose estates are mortgaged to Government, the mortgage being liable to be foreclosed, as soon as they fail to make their quarterly payments. They are almost all, however, in the habit of treating their ryots not merely as their tenants, but as their serfs. They call themselves rajahs or kings, and the ryots their subjects. They almost universally either claim more than their due, or else they claim it in an improper manner, for it is not easy to determine what really is their due. They exact contributions from their ryots when a marriage, or a birth, or a death takes place in the family. They exact contributions for the avowed purpose of observing funeral rites in commemoration of their dead ancestors, and of celebrating the annual heathen festivals. These practices are almost universal. In numerous localities they exact from the ryots gratuitous labour in the field or at the oar; and compel the poor people to allow them, without payment, the use of their cattle or of their boats, if they possess any. It is not unusual, especially at a considerable distance from the civil stations, for zemindars to go still further in the abuse of their power, by inflicting imprisonment and torture upon any ryot who may have incurred their displeasure.

It is true that there exist laws of a most praiseworthy nature, which are intended to protect the ryot against unjust ejection from his tenure and against oppression generally; but these laws remain, to a great extent, a dead letter. Not to dwell upon the well-known fact that witnesses who will swear to anything can always be had in this country by the highest bidder, the ryot has very little money to spare for law suits. The advance which must be paid into court as a guarantee for the appearance—or *de facto* for the maintenance—of witnesses; the expense of a journey to the civil station, and of his own support, and that of his witnesses during their stay there, and the serious loss which such a stay must, at certain seasons, occasion to his property, and particularly to his crops: these are formidable obstacles to the ryot. He cannot, generally speaking, afford single-handed to contest a law suit with his zemindar, who possesses greater pecuniary resources, greater influence at head quarters, and greater experience in legal proceedings.

The powers with which the collector is armed, in order to enforce payment on the part of recusant ryots, are so great that they are a source of terror to the rural population. Some of the Government regulations, in which those powers are defined, are best known by the numbers which they bear. As an instance, that regulation which is usually called the seventh or huftum, may be mentioned. The enforcement of this regulation conveys to the Bengali ryot the same uncomfortable impression which is usually connected with the idea of being "quartered" or "decimated." When he sees that he is about to be "septimated," he makes every effort in his power to escape from his fate by flight, thereby risking the loss of all he possesses in the world. If these regulations were only enforced in those cases to which they were originally intended to apply, the evil would not, perhaps, be very great; but the zemindars frequently succeed in prevailing upon collectors (by false representations) to enforce them in cases to which they ought not to be applied at all.

In many cases the zemindars themselves are not aware of all the misery which is inflicted in their name upon the ryots by the agents whom they employ in collecting the rent. These middle-men are, in truth, the greatest tyrants. And as such middle-men would have to be employed by Government in case the ryotwari system should be substituted for the zemindari system, it is clear that such a change would not be of any great advantage to the ryots, probably of none at all. It is well known that the middle-men employed by humane European indigo planters, are in many cases as oppressive as those employed by native zemindars. What is wanted is that the ryot should have direct access to his landlord, and that the interests of both should be the same. And this object would probably be accomplished, in process of time, if by legalising the commutation of the land-tax, the prospect of becoming freeholders was opened to capitalists.

It appears, therefore, desirable that the subject of the zemindari system should be examined into by the Committee now appointed by Parliament, and that this aspect of it should form a special topic of inquiry. The zemindars have taken measures to bring their grievance to the notice of Parliament; but it is greatly to be feared that the grievances of ryots, which even in this country are not extensively known to Europeans, will be passed over in silence, unless special attention is directed to them. The contemplation of them has often caused the hearts of missionaries to bleed, and often led them to ask whether it is possible, in the present social condition of the majority of the population, for Christianity to take deep root in this country, and to produce those fruits of veracity, industry, prosperity, disinterestedness, generosity, and nobility of character, by which the Gospel is intended to become a blessing to mankind at large.

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LEGISLATIVE COUNCIL.

Appendix, No. 7.

SALES OF LAND FOR ARREARS OF REVENUE (BENGAL).

Mr. Grant moved the first reading of a Bill "To improve the Law relating to sales of Land for arrears of Revenue in the Bengal Presidency." He said, in presenting his Bill on this important subject, he would not attempt to discuss the difficulties of the question, for he thought that they could not be discussed with much advantage until Honourable Members should have the printed papers in their hands. He intended simply to draw the attention of the Council to the chief points in which he proposed to amend the present law.

The first important point in which it was proposed to amend the present law was the dispensing with that provision which requires the previous sanction of the Board of Revenue to the sale of every estate which it is necessary to put up to sale for arrears of revenue in the province of Cuttack. Honourable Members were aware that there were two systems in force for the recovery of arrears of revenue. In Bengal, where the districts were permanently settled, the only process was the process of sale. It was the first and the last process; and the revenue was collected under it without vexation or difficulty. In the provinces not permanently settled, it was different. There the revenue was collected by a system of dustuks, tullubana, arrest of person, sale of personal property, and attachment of land. This process, under which sale was the last coercive measure resorted to, was supposed to be peculiarly adapted to those provinces; whilst in Bengal, as he had observed, the process of sale as the first and the last process was found to work most satisfactorily, and rarely in practice to require to be resorted to. Cuttack was the only Regulation Province not permanently settled under the jurisdiction of the Bengal Board of Revenue, and the only one in which any part of the North Western process of enforcing payment of revenue was in force by law. Within the last few years, there had been a great deal of discussion between the Bengal Government, the Board, and the local authorities in the Cuttack districts, regarding the process that should be adopted there. The weight of authority greatly preponderated in favour of placing Cuttack—that is to say, the whole of that portion of Orissa not permanently settled—on the same footing in this respect as the permanently settled districts. The Bengal Government recommended this measure, and he had adopted it in his Bill. But he thought, if this change were made, it would be quite necessary altogether to rescind Regulation X. of 1818, which, accordingly, he proposed to do. The preamble of that Regulation said:—

"Whereas it is deemed expedient, with the view to ensure for the future the more punctual collection of the public revenue from zemindars, talookdars, and other actual proprietors of land, and farmers of land in the district of Cuttack, the pergunnah of Puttaspore, and the several places dependent on it, to assimilate the system of collection in the said district and pergunnah and places more nearly to that pursued in the Western Provinces, the following rules have been accordingly enacted."

As the avowed object of the alteration of the law to which he was now adverting, namely, the dispensing with the previous sanction of the Board of Revenue, was to assimilate the system of collection in Cuttack to the system of collection in Bengal, which was entirely different from that pursued in the Western Provinces, he thought it would not be right to leave upon the Statute Book a Regulation intended to enforce the opposite system.

The next point in which it was proposed to alter the present law was not suggested in any of the papers which he had seen, but had occurred to himself as apparently an improvement in the law. By the present law, the holder of a lien on an estate, if he fears that the estate may be sold for arrears of revenue, is entitled to deposit the amount of the arrears with the collector, and if, before sunset of the latest day of payment, the arrears are not paid up by the proprietor, the deposit of the mortgagee is carried to the credit of the estate in liquidation of the arrears, and so the estate, with the lien upon it, is saved. But when this is done, the mortgagee has nothing more to look to for the recovery of the money he deposited than the personal security of the defaulting proprietor. He (Mr. Grant) thought that this was hard and unjust; and he had therefore provided in the Bill, that the mortgagee should have the same security over the estate for his deposit that he had by his original lien. If, in the discussion of this Bill by the Council hereafter, any valid objection should be found to exist to the giving of this new security to mortgagees, of course the plan could not be carried out. At present, he was not aware that any such objection existed; and if so, he could not doubt that the new security ought to be given.

The next proposed important alteration in the law had been recommended by the Board of Revenue. It was that each sharer in an estate, whether a sharer in a joint estate held in common tenancy, or the holder of a specific portion of the land of an entire estate, should have

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have the means of acquiring the privilege of protecting his share by paying up his own portion of the Government revenue, whether the other sharers paid up theirs or not. He believed that nobody had doubted—he thought that nobody could doubt—that, if this privilege could be given, it was a simple act of justice to the honest and solvent sharer to give it to him, and so to secure him from being made the victim of the fraud or neglect of his co-sharers. He had therefore adopted, in the main, provisions which had been prepared by the Board of Revenue for this purpose, and formed part of a draft Act for the improvement of the law of Butwarrah or partition of estates, proposed by that authority. It was unnecessary to explain how such a provision had found place in a Butwarrah law; the proper place for it undoubtedly was the Sale law, and therefore it had been adopted in this Bill. The Bill provided that, when a recorded co-sharer desires to pay his portion of the Government revenue separately, he may submit to the collector a written application specifying the nature and extent of his interest in the estate. The collector will cause the application to be published; and if, within six weeks from the date of the publication, no objection is made by any other recorded sharer, the collector will open a separate account with the applicant, and will credit separately to his share all payments made by him on account of it. If any recorded proprietor of the estate, whether the estate is held in common tenancy or not, objects to the application, the collector will institute a summary inquiry, and will, after such inquiry, reject or admit the application. The award of the collector will be subject to the usual appeal to the higher revenue authorities, and to reversal by a regular suit in the civil court, provided such suit be brought within one year from the date of the final award of the revenue authorities.

If a sharer whose share has been separated as above, should fall into arrears of revenue, and his share should be put up for sale, it might happen that no bid would be offered equal to the amount of the arrears. In such a case the Board of Revenue proposed that 10 days should be allowed to make good the arrear; and that, if the money were not paid on the expiration of that time, the whole estate should be put up for sale. Now, he thought it was quite necessary for the security of the public revenue that the whole estate should continue liable, and should be put up for sale, whenever any portion of the revenue due upon it continued unpaid; but he did not think it was necessary to do what the Board of Revenue recommended. In the first place, he did not think it expedient to allow the defaulter a second period for the payment of the arrears due from him, after the latest day of payment had passed. By universal admission, one of the most excellent provisions of the Sale law of 1841, which was followed in the Sale law of 1845, was that which insisted upon the payment of arrears of revenue before a certain fixed date, and allowed no subsequent payment to stop a sale. He should be sorry in any way to break in upon that principle. In the second place, he thought the requisite security of the revenue could be ensured in a manner more fair to the co-sharers whose shares of the revenue had been duly paid. He had provided in his Bill that, where the highest offer for a share exposed to sale for arrears of revenue should not be equal to the amount due upon it, the collector should stop the sale, and should allow 10 days to the other shares, within which time they should be at liberty to purchase the defaulter's share by paying to Government the whole amount due upon it. This would inflict no injustice upon the defaulting sharer, for he would obtain more than the market value of his share, as that market value had been tested by public auction; and it would be doing no more than justice to the innocent co-sharers, who, without loss, would thus be able to preserve their own property. This provision would also prevent the not uncommon fraud of a wealthy sharer wilfully making default, in order that the whole estate may be put up for sale, and that he may purchase it all himself.

The Bengal Government had proposed that the benefit of separate payment should not be extended to any share the revenue of which does not exceed 50 rupees. He had not thought it right to adopt that proposal. The object was the security of the sharer in his just rights, by the protection of his property when there is no default on his part. This is but justice, whatever the value of the share may be. A share paying 40 rupees might be of as much concern to a poor man as the estate of the Rajah of Burdwan, paying 40 lakhs, is to the rajah. The property of both should be justly protected.

The next proposed change in the law was another point which had not been suggested in the papers, but which had struck him as a material improvement. It occasionally might happen, especially in the case of an absent proprietor, that a man's property might be sold for arrears of revenue which accrued from no intentional default, and no negligence on his part, but from some accident, or from the neglect of an agent. Now, the property might be very valuable, and, if put up for sale, it might sell for a sum very disproportionate to its value to its proprietor. To enable proprietors to secure themselves if they choose from any such risk, he had provided that every zemindar paying revenue directly to Government on an entire estate, should have the power of lodging with the collector a sum of money, or Company's paper, for the purpose of being applied to the payment of any arrear of revenue that might remain due upon his estate, after sunset of the latest day of payment. This, if the deposit were made equal to one or two instalments of revenue, would secure the estate from the possibility of being sold, even if the proprietor were living in England. The deposit might be made in Government securities sufficient in amount to pay the revenue from the interest, whereby the estate might be permanently secured from sale for arrears of revenue;—a provision which might be of use for peculiar properties which, from buildings having been erected upon them, gardens or orchards having been planted upon them, or from other like causes, were of great value in proportion to the revenue assessed upon them.

He now came to the most important question of all—the question of under-tenures. The Bill, as he had prepared it, would enforce the registration of under-tenures. There were two classes of under-tenures—under-tenures which existed before the permanent settlement was made, and under-tenures which were created after it. Those that existed before the permanent settlement was made, continued to hold good after the sale of the parent estate for arrears of revenue. But the contrary, as Honourable Members were well aware, was the case with under-tenures created subsequently. Under this Bill, as it was now prepared, holders of under-tenures of either description would be obliged to register them. The time allowed for the application to register was three years from the date of the passing of the Act. Within that period the Bill provided that the holder of an ante-settlement under-tenure, who desired to secure it against all risk whatever, should petition the collector for registration; and the collector, if he should be satisfied that the tenure was truly an ante-settlement tenure, would allow the registration. The award of the collector for registration might be contested by a civil suit, if such suit should be brought within one year from the date of the award, otherwise the tenure would stand for ever freed from being subject to any question as to its validity.

The question of the propriety of enforcing the registration of old under-tenures was one which was, doubtless, open to much discussion. He had prepared the Bill in this manner purely with the view of inviting such discussion. But he apprehended that, as to the propriety of enabling the holders of old under-tenures to register, and so to secure themselves against all possible suits to destroy their titles, there could be no difference of opinion. The absence of anything like effectual registration in all our districts, was the cause of constant litigation; for every holder of an under-tenure was liable to answer to the regular suit of every successive purchaser of the parent estate; because every successive purchaser of the parent estate enters with all the rights of the person with whom the settlement was originally made, and, by the force of those rights, can put the holder of the oldest under-tenant to the proof.

He now came to the case of new under-tenures. This had been admitted by all who had taken any part in it, to be a question of great difficulty; and certainly he, who had given a great deal of thought to it, was entirely of opinion that its difficulty had not been exaggerated. It had been under discussion for 12 years between persons who were of all the most competent to determine any such question. A project had been sent up by the Bengal Government in connexion with it, which he, at one time, had strongly approved as being a great step in advance. It was that all under-tenures in an estate, without exception or inquiry, should be allowed to hold as good against an auction purchaser as they were against the former proprietor, as long as the parent estate should be saleable at a price that would cover the arrears of revenue due from it; but that, as soon as the parent estate should fail to be saleable at such a price, it should be forfeited to Government, and the whole of the past settlement under-tenures should be annulled; whereupon Government should proceed to form a new settlement of the land.

Upon this plan, he would remark that the forfeiture could not be carried out, because whatever sum was offered at the sale for the estate, though it might be less than the amount due for revenue, was the due of the zemindar, who would have a right to insist that it should be carried to his credit, and that the amount of the arrears payable by him should be reduced *pro tanto*. That, however, was not a substantial objection to the main feature of the plan. But there were other objections to the plan which he thought were substantial. In the first place, the plan did not profess to give complete security to under-tenants holding under honest titles at fair rents. It did not, therefore, profess to do what it ought certainly to be the object of the Legislature to do. The object of the Legislature ought to be to give security to the under-tenant, with the view of encouraging him to lay out capital in the improvement of his land; and certainly so long as his tenure was liable to be taken from him for no default of his own, on the forfeiture of the parent estate, so long would he be discouraged from laying out his good money upon that land. The discouragement would, doubtless, be lessened by the adoption of the ingenious plan proposed by the Bengal Government; but it would by no means be removed altogether. For example, suppose that there were two talookdars, or holders of under-tenures, in one estate; one of whom having increased the value of his talook by a large expenditure of capital, had raised his rents to double their original amount; and the other, having allowed his talook to deteriorate, had reduced his rents by one-half; suppose that, in this state of things, the entire estate is put up for sale for arrears of revenue, and that no one comes forward to bid to the amount of the arrears, the estate would thereupon be forfeited; the Government would enter into possession, and the collector would make a ryotwarry settlement under Regulation VII. of 1822. Now, the collector would make a perfectly fair settlement for the land of the estate, for he would make it with reference to the assets of the estate as he should then find them; but he could not make, and could not pretend to make, a fair settlement for the talookdars. He could not pretend to ascertain how much money any one talookdar had spent upon his talook in the course of the last 60 years. He must fix the revenue of every beegah according to its existing value; and thus the consequence would be that the meritorious talookdar would be fined by an enhancement of his jumma for having improved the value of his share at his own expense, whilst the talookdar who had allowed the value of his land to deteriorate, would be rewarded by a reduction of his jumma. There was another objection to this plan, which he believed to be a sound one, and which he knew

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was felt strongly by the zemindars themselves. If this measure were introduced, there was no doubt that it would open a door to fraud. There was no doubt that many zemindars would create benamee and other talooks on their estates at inadequate rents, or would pretend to have created such talooks. Their estates might be purchased by persons in ignorance of the fraud, who would ultimately discover that they had bought a losing concern, or a bag of lawsuits; and the consequence of frequent bad bargains of this sort would be that the auction value of all zemindarees, even of those in which no such frauds had been really committed, would be diminished. He had no doubt that such fictitious tenures would be created in many cases, and he believed that a general reduction of the value of zemindaree property would be the consequence.

On the whole, therefore, he had come to the conclusion that this plan, which would be a half-measure at best, must be abandoned, and that the difficulties of the question must be fairly met in an endeavour to attain the object completely. He had been told on good authority, that two-thirds of the land in Bengal were held under talookdaree tenure. If so large, or anything like so large a proportion of land in this Presidency was held under that description of tenure, surely it was worth the while of this Council to make the tenure as secure as it was possible to make it. This is what he had attempted to do. He proposed that, when the holder of a new under-tenure—that is to say, of any tenure created since the settlement—should apply for the registration of his tenure, the collector should immediately cause the talook to be measured and surveyed, at the expense of the talookdar; provided that, in the case of tenures created after the passing of the Act, no such application should be received, unless it was submitted within one month from the date of the deed constituting the tenure. If the revenue authorities should be satisfied that the rent of the talook is fully sufficient to afford its share of the jumma of the estate, the tenure should be registered in complete detail, and this registry should secure it in all time coming, whatever might become of the parent estate. It would be an easy thing, after the survey of the talook, where the revenue survey had been passed over a district, for the collector to satisfy himself whether its rent were or were not such as would *pro tanto* risk the public revenue; for the revenue survey showed the precise area of every entire estate; the only difficulty was, to get at the assets of the particular talook, and to ascertain approximately the value of the rent of the land of the entire estate, which last point, when the area is known, would not, he hoped, be very difficult for all practical purposes. He believed that the cost of a special survey of the talook would not be large. It would not exceed, he was led to suppose, 4 rupees per 100 biggahs. A person, therefore, having a talook of 1,000 biggahs might have to pay 40 rupees for a special survey; and if the talook was worth anything at all, it was surely worth that to secure the property for ever. Where the revenue survey had not passed over a district, the process would be more expensive; but this was unavoidable. When the rent of the talook was ample, it ought not to be very difficult, after the survey of the talook, to prove the fact to the satisfaction of the revenue authorities.

He had now explained how he proposed to amend the sale law. He had given his best attention to the subject, but he did not pretend to have prepared anything like a perfect measure. He was sensible that his Bill would be found far otherwise. All he hoped was, that it might be found to be such as the united wisdom of the Council, with the aid which they would be sure to derive from the revenue authorities, and from the public, might work up into a law which would completely carry out the important objects contemplated; these objects being the security of honest titles, and the general encouragement of agricultural improvement.

The Bill was read a first time.

SALE LAW IMPROVEMENT BILL (BENGAL).

Read a first time on the 22d December 1855.

A Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency.

Preamble.

Whereas it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue or other demands of Government in the province of Cuttack: and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured: and whereas it is expedient to afford sharers in estates who duly pay their shares of the sudder jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers: and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents: and whereas it is expedient to enforce the registration of dependent talooks existing at the time of settlement, and to give absolute security to such talooks when so registered: and whereas it is expedient to protect the holders of under-tenures created in good faith, not resumable by the grantors or their representatives, and held at rents fully sufficient for the security of the public revenue, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, for which such holders may not be in any degree responsible, and it is therefore proper for the above and other purposes to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency; it is enacted as follows:—

Laws repealed.

I. Act I. of 1845, except in so far as it repeals other laws, and except in regard to sales made or advertised, suits commenced, and acts done under authority thereof; Regulation X. of 1818, and Sections XV., XVI., XVII., and XVIII., of Regulation XIV. of 1793, are hereby repealed.

What is an arrear of revenue.

II. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundee of any mehal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment in permanently settled districts and in Cuttack.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realised in the same manner as arrears of revenue, shall be paid up in each permanently settled district under their jurisdiction, and in each of the districts not permanently settled in the province of Cuttack; in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the official "Gazette," and shall direct corresponding publication to be made, as far as regards each district, in the language of that district, in the office of the collector, or other officer duly authorised to hold sales under this Act, in the courts of the judge, magistrate, (or joint magistrate, as the case may be,) principal sudder ameens, sudder ameens, and moonsiffs, and at every thannah station of that district; and the dates so fixed shall not be changed except by the said Board, by advertisement and notifications, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

Latest day of payment in other districts.

IV. In the province of Benares, and in districts not permanently settled, with the exception of the districts in the province of Cuttack, no sale shall take place for arrears of land revenue or other demands of Government, without the special sanction of the Board of Revenue previously obtained in each several case of sale. Provided that the said Board, at the time of authorising such sale, shall fix the latest day on which in each case such arrears or demands shall be received.

Proviso in the case of certain descriptions of arrear.

V. Provided always, that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than 15 clear days preceding the date fixed for payment, according to Section III. or Section IV. of this Act, as the case may be, in the office of the collector or other officer duly authorised to hold sales under this Act, in the court of the judge within whose jurisdiction the land advertised lies, in the courts of the principal sudder ameens and sudder ameens of the district, and in the moonsiff's court and police thannah of the division in which the estate to which the notification relates, or a part of it, is situated, the same to be certified by the receipt of the officer at whose office such notification may have been affixed; and also at the cutcherry of the malgoozar or owner of the estate, or at some conspicuous place upon the estate, the same to be certified by the peon or other person employed for the purpose.

First. Arrears due from estates in the province of Benares.

Secondly. Arrears due from estates, not permanently settled, other than estates in the province of Cuttack.

Thirdly. Arrears other than those of the current year, or of the year immediately preceding.

Fourthly. Arrears due on account of estates other than that to be sold.

Fifthly. Arrears of estates under attachment by order of any judicial authority.

Sixthly. Arrears due on account of tuccavee, poolbundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.

VI. The collector, or other officer duly authorised to hold sales under this Act, shall, as soon as possible after the latest day of payment fixed in the manner prescribed in Section III. or Section IV. of this Act, issue notifications in the language of the district, to be affixed in his own office, and in the court of the judge of the district, and to be published in the official "Gazette," specifying the estate or estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than 15 or more than 30 clear days from the date of affixing the notification in the office of the collector or other officer as aforesaid. And, except as hereinafter provided, all estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the collector or other officer as aforesaid, and shall be sold to the highest bidder. And no payment, or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

VII. Whenever

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Notice to ryots, &c.

VII. Whenever an estate is notified for sale as provided by Section VI. of this Act, the collector or other officer as aforesaid shall affix a proclamation in the language of the district, in his own office, and as soon thereafter as may be in the moonsiff's courts and police thannahs within which the estate or any part of it is situated, and also at the cutcherry of the malgoozar or the owner of the estate, or at some conspicuous place upon the estate, forbidding the ryots and under-tenants to pay rent to the defaulting proprietor from the date of the day after that fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums paid after the date aforesaid.

Claims against Government not to invalidate a sale.

VIII. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the balance or part of it, was in the collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless after application in due time made by the defaulter, or after the written agreement provided for in Section XV. of this Act, the collector shall have neglected, or refused on insufficient grounds, to transfer it to the credit of the estate.

Deposits receivable from persons not proprietors.

IX. The collector or other officer as aforesaid shall, at any time before sunset of the latest day of payment, determined according to Section III. or Section IV. of this Act, receive as a deposit from any person not being a proprietor of the estate in arrear, the amount of the arrear of revenue due from it, to be carried to the credit of the said estate at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited to the estate in the manner aforesaid, shall be a party in a suit pending before a court of justice for the possession of the same or any part thereof, it shall be competent to the said court to order the said party to be put into temporary possession of the said estate or part thereof, subject to the rules in force for taking security in the cases of parties in civil suits. And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent civil court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale of the estate, or which he believed in good faith would have been endangered or damaged by such sale, he shall be entitled to recover the amount of the deposit, with or without interest as the court may determine, from the proprietor of the said estate. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a court that the deposit was necessary in order to protect any lien he had on the estate, the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common tenancy.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the collector a written application to that effect. The application must contain a specification of the extent and nature of the interest held in the estate by the applicant. The collector will then cause to be published in his own cutcherry, in that of the judge, magistrate, (or joint magistrate, as the case may be), principal sudder ameens, sudder ameens, and moonsiffs, and in the police thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the collector will open a separate account with the applicant, and will credit separately to his share all payments made by him on account of it. The date on which the collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the collector will cause it to be published in the manner prescribed for publication of notice in the last preceding section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the collector will open a separate account with the applicant, and will credit separately to his share all payments made by him on account of it. The date on which the collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Summary inquiry by the collector.

XII. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less than, or is of a different nature from, that claimed by him, the collector will institute a summary inquiry into the fact of possession, and if he be satisfied that the applicant is really in possession of the share as claimed by him, he will open a separate account for his share, as directed in one or other of the last two preceding sections. If, in the case of a claimant of specific land, the objection be that the jumma alleged by the applicant to be the separate jumma of his specific share of the lands of the estate is not the jumma which has been recognised as such by the other sharers, the collector will make a summary inquiry into the fact, and will reject or admit the application. The orders of the collector under this section shall be subject to appeal to the higher revenue authorities in regular course, and shall be subject to reversal or alteration by a regular suit in the civil courts, provided that such suit shall have been instituted within one year from the date of the final award of the revenue authorities, but not otherwise.

Sale of separate shares.

XIII. Whenever the collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the collector in the first place shall put up to sale only that share, or those shares, of the estate from which, according to the separate accounts, an arrear of revenue may be due. In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in section VI. of this Act. The share or shares sold, together with the share or shares excluded from the sale, will continue to constitute one integral estate, the share or shares sold being charged with the separate portion or the aggregate of the several separate portions of jumma assigned thereto.

Entire estate may be sold under certain conditions.

XIV. If in any case of a sale held according to the provisions of the last preceding section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the collector shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share. If such purchase be completed, the collector or other officer as aforesaid shall give such certificate as is provided for in Section XXVII. of this Act, to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale. If no such purchase be made within ten days as aforesaid the entire estate shall be sold, after the notification and in the form prescribed in Section VI. of this Act, in the same manner as if the entire estate had been in arrear after the latest day of payment.

Deposit for the protection of an estate from sale.

XV. If any recorded proprietor or co-partner of an estate shall deposit with the collector money, or Government securities endorsed and made payable to the order of the collector, and shall sign an agreement pledging the same to Government by way of security for the jumma of the entire estate, and authorising the collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under Section III. or Section IV. of this Act, the collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities as may be necessary; and for this purpose the collector shall first apply any money that may be in his hands, and any interest that may be due upon such securities. And so long as any money or securities as aforesaid shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue.

Withdrawal of the deposit.

XVI. It shall be competent to the person making a deposit under the provision of the last preceding section, or his representative or assignee, at any time to withdraw the deposit, and to revoke the pledge of the same; and from the date of such withdrawal and revocation the estate shall be subject to the ordinary rules relating to sales for arrears of revenue.

Estates under Court of Wards or attachment.

XVII. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of 18 years. And no estate held under attachment by the revenue authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate held under attachment by a revenue officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment, until after the end of the year in which such arrears accrued.

Estates may be specially exempted from sale.

Proviso.

XVIII. It shall be competent to the collector at any time before the sale of an estate shall have commenced, to exempt such estate from sale; and in like manner it shall be competent to the Commissioner of Revenue at any time before the sale of an estate shall have commenced, to exempt such estate from sale by a special order to the collector to that effect in each case; and no sale of an estate shall be legal if held after the receipt of an order of exemption in respect to such estate. Provided, however, and it is hereby enacted, that the collector or Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the collector of the order for exempting it from sale.

Sales where to be made.

XIX. Sales shall ordinarily be made by the collector in the land revenue cutcherry at the sudder station of the district, provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such cutcherry whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

XX. In case the collector shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his cutcherry; and so on, from day to day until he shall be able to commence upon, or to complete the sale; but, with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

XXI. On the day of sale fixed according to Section VI. of this Act sales shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or register in use in the collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in Section XXII. of this Act.

Deposit on account of purchase-money.

XXII. The party who shall be declared the purchaser of an estate at any such public sale as aforesaid, shall be required to deposit immediately, or as soon after the conclusion of the sale of the estate as the collector may think necessary, either in cash, Bank of Bengal notes or post bills, or Government securities duly indorsed, 25 per cent. on the amount of his bid; and in default of such deposit, the estate shall forthwith be put up again and sold.

Full payment of purchase-money.

XXIII. The full amount of purchase-money shall be made good by the purchaser before sunset of the 30th day from that on which the sale of the estate bought by him took place, reckoning that day as one of the 30; or if the 30th day be a Sunday or other close holiday, then on the first office day after the 30th; and in default of payment within the prescribed period as aforesaid, then and afterwards as often as such default shall occur, the deposit shall be forfeited to Government, the estate shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate, or to any part of the sum for which it may subsequently be sold, and in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorised for realising an arrear of public revenue, and it shall be so levied and credited to the defaulting proprietor of the estate sold; and if default of payment of purchase-money shall have occurred more than once, the defaulting bidders shall be held jointly and severally responsible for such difference to the extent of the amount of their respective bids. Provided always, that every such re-sale shall be made after notification and in the forms prescribed by Section VI. of this Act; and that such notification shall not be issued until the expiration of three clear days after the day on which the default shall have occurred. Provided also, that payment, or tender of payment, by or on behalf of the proprietor, of the arrear for which the estate was first sold and of the arrear which may have subsequently become due, if such payment or tender of payment be made before sunset of the day preceding the day of the notification of re-sale and after the defaulting purchaser shall have made the deposit required by Section XXII. of this Act, shall bar such re-sale.

Proviso 1st.

Proviso 2d.

Appeals.

XXIV. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act, if preferred to him on or before the 15th day from the date of sale, reckoning as in Section XXIII., or if preferred to the collector for transmission to the Commissioner, on or before the 10th day from the day of sale, and not otherwise; and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding at the same time to the purchaser a payment from the proprietor of any moderate compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest, at the current rate of Government securities, on the amount of deposit or balance of purchase-money during the period of its being retained in the collector's office; and the order of the Commissioner shall, in such cases, be final.

Annulment of sale in special cases.

XXV. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the local Government to annul the sale; and the local Government in any such case may annul the sale, and cause the estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

XXVI. All sales, of which the purchase-money has been paid up as prescribed in Section XXIII. of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the 30th day from the day of sale, reckoning the said day of sale as the first of the said 30 days. And sales against which an appeal may have been preferred, and the appeal dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal, if more than 30 days from the day of sale, or if less, then at noon of the 30th day, as above provided.

Certificate of sales.

XXVII. Immediately upon a sale becoming final and conclusive, the collector or other officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule (A.) annexed to this Act. And the said certificate shall be deemed in any court of justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified; and the collector shall also notify such transfer by written proclamation in his own cutcherry, and in those of the moonsiff and darogah of the jurisdiction within which any part of the estate or share of an estate sold shall be situated, and also at the cutcherry of the malgoozar or owner of the estate, or share of an estate, or on some conspicuous place on the estate, or share of an estate.

Application of purchase-money.

XXVIII. The collector shall apply the purchase-money, first to the liquidation of all arrears due from the estate or share sold upon the latest day of payment; and secondly to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the district, holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, to be paid to his or their receipt on demand in the manner following: to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. Provided that, if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase-money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a civil court.

Proviso.

Effects of annulment by decree of court of sales under this Act.

XXIX. If a sale made under this Act be annulled by a final decree of a civil court, execution of such decree must be obtained before six months after the date thereof, otherwise the party obtaining the decreee shall lose all benefit therefrom. And when execution of such a decree is duly obtained, the party obtaining it shall not be restored to possession, until any amount of surplus purchase-money that may have been paid away by order of a civil court be repaid by him, with interest at the highest current rate of Government securities. And if such party shall neglect to pay any amount so recoverable, within six months from the date of such final decree, he shall lose all benefit therefrom.

No suits on the ground of *benamee* purchase.

XXX. Any suit brought to oust the certified purchaser as aforesaid, on the ground that the purchase was made on behalf of another person, not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Notification of annulment of sale.

XXXI. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXVI. of this Act; and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser, with interest thereon at the highest rate of the current public securities.

Liability of purchaser.

XXXII. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of Government which may fall due subsequently to the latest day of payment aforesaid.

Jurisdiction of civil courts in suits to amend sales.

XXXIII. No sale for arrears of revenue or other demands realisable in the same manner as arrears of revenue are realisable, made after the passing of this Act, shall be annulled by a court of justice, except upon the ground of its having been made contrary to the provisions of this Act; and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under Section XXIV. of this Act; and no suit to annul a sale made under this Act shall be received by any court of justice unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in Section XXVI. of this Act; and no person shall be entitled to contest the legality of a sale, after having received any portion of the purchase-money. Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Proviso.

If sale annulled purchase-money to be refunded.

XXXIV. In the event of a sale being annulled by a final decree of a court of justice, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

Rights of a purchaser of permanently settled estate sold for its own arrears.

XXXV. The purchaser of an entire estate sold under this Act, for the recovery of arrears due on account of the same, in the permanently settled districts of Bengal, Behar, Orissa, and Benares, shall acquire the estate free from all incumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions:—

First. Istemraree or mokurreree tenures which were held at a fixed rent, more than 12 years before the permanent settlement, which have been duly registered under Section

XXXVI. of this Act, and whereon no arrear of rent was due on the latest day of payment of revenue as fixed under Sections III. and IV. of this Act.

Secondly. Tenures existing at the time of settlement, which have not been or may not be proved to be liable to increase of assessment on the grounds stated in Section LI. Regulation VIII. of 1793, which shall have been duly registered under Section XXXVI. of this Act, and whereon no arrear of rent was due on the latest day of payment of revenue as fixed under Sections III. and IV. of this Act.

Thirdly. Tenures of whatsoever description, and farms for terms of years, which have been created since the time of settlement, which have been duly registered under Section XXXVII. of this Act, and whereon no arrear of rent was due on the latest day of payment of revenue as fixed under Sections III. and IV. of this Act.

Fourthly. Lands whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed in Sections IX. and X. of Regulation V. of 1812, for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he considers the same to have been held at an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding 12 years, but not otherwise.

Proviso.

Provided always, that nothing in this Section contained shall be construed to entitle any such purchaser as aforesaid to eject any khoodkasht kudeemee ryot, or any resident hereditary cultivator having a prescriptive right of occupancy at fixed rents, or at rents assessable according to fixed rules under the regulations in force, or to enhance the rent of any such ryot or cultivator otherwise than in the manner prescribed by the laws in force, or otherwise than the former proprietor at the time of settlement may have been entitled to do.

Registration of old talookdaree tenures.

XXXVI. The following rules for the registration of talookdaree tenures forming the first and second classes excepted in the last preceding section, shall be observed :—

First. The holder of the under-tenure shall be at liberty to apply for the registration of his under-tenure, by petition presented to the collector of the district in whose jurisdiction the parent estate is situated, within three years from the date of the passing of this Act. The application shall contain the following particulars as far as the same are ascertainable :

1. The pergunnah or pergunnahs in which the tenure is situated.

2. The denomination of the tenure.

3. The name or names of the village or villages whereof the land is composed, or wherein it is situated.

4. The area of the land comprised in the tenure, with its boundaries in complete detail.

5. The amount of rent and cesses payable annually for the tenure, and the duties, if any, required to be performed on account of it.

6. The date of the deed constituting the tenure, or the date when the tenure was created.

7. The name of the proprietor who created the tenure.

8. The name of the original holder of the under-tenure.

9. The name of the present possessor, and if he be not the original holder, his relationship to that person, and the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase, or otherwise, and whether he holds jointly or solely.

Secondly. The collector on receipt of such application shall serve a notice on the recorded proprietor of the estate in which the tenure is situated, with a copy of the application, and shall also cause a notice, with a copy of the application annexed, to be published at the places and in the manner prescribed by Section VI. of this Act, requiring the proprietor or any party interested, within 30 days from the date of the issue of the said notice, to file any objection he may have to the registry of the tenure, or to any statement contained in the application. In the absence of any objection, the collector, if after making due inquiry he is satisfied of the applicant's claim, shall register the tenure. If any objection is made, he shall require both parties, within a reasonable time, to produce their respective proofs, and shall fix a day, by notification in his cutcherry, for the summary investigation of the case. If after such summary investigation he shall be of opinion that the applicant has failed to establish his claim, he shall reject the application. If after such investigation he shall be of the contrary opinion, he shall forthwith register the under-tenure in the provisional registry book. Any party dissatisfied with the collector's award may, within one year from the date of the award, but not afterwards, institute a suit in the Civil Court for the reversal of the same, and after the final decision of the Civil Court, the tenure shall be dealt with according to such decision. If the decision be in favour of the claimant of the tenure, on his producing an authenticated copy of such final decree, the tenure shall be transferred from the provisional registry to the permanent registry book; but if the final decision be otherwise, on the proprietor producing an authenticated copy of the same, the tenure shall be erased from the provisional registry book.

Registration of new talookdaree tenures and farms.

XXXVII. The following rules for the registration of talookdaree tenures and farms, forming the third class of tenures excepted in Section XXXV. of this Act, shall be observed:—

All the rules prescribed in the last preceding Section shall apply to this class of tenures also, with the following additional rules:

Immediately upon receipt of the application, the collector shall cause whatever measurement, survey, and local inquiry he may deem necessary for the security of the Government revenue, to be made. When no objection on the part of the proprietor of the parent estate, or of any other party interested is filed; or when, if such objection is filed, the collector after summary investigation may be of opinion that the applicant has established his claim so far as the rights of the proprietor and other private parties are concerned; before registering the tenure the collector shall satisfy himself that it was created in good faith so far as the interests of the Government revenue are concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed upon the parent estate. If the collector be not satisfied upon this point, he shall reject the application. If he be satisfied upon this point, he shall register the tenure in the provisional registry book under the rules prescribed in Section XXXVIII. of this Act. Provided always, that in the case of such tenures created after the passing of this Act, no application for registration shall be received, unless the same be submitted within one month from the date of the deed constituting the tenure.

Protection of under-tenures provisionally registered.

XXXVIII. Talookdaree tenures for the registration of which application shall be made within the prescribed time shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the summary investigation of the collector, and shall be protected eventually by provisional or permanent registration, if the award of the collector upon such application be in favour of the applicant, or in case of that award being against the applicant, if that award be reversed by the final decision of a civil court.

Appeals from collector's registration awards.

XXXIX. The awards of collectors passed under Sections XXXVI. and XXXVII. of this Act, shall be open to appeal to the superior revenue authorities in usual course.

Restriction of jurisdiction of civil courts.

XL. No civil court shall be competent to interfere with any award of any revenue authority passed under Sections XXXVI. and XXXVII. of this Act, founded upon any consideration regarding the good faith in which a tenure may have been created so far as the interests of the Government revenue are concerned, or the adequacy of the rent for the security of that revenue.

Protection of under-tenures permanently registered.

XLI. After the expiration of one year from the date of registration in the provisional registry book, the collector shall transfer the registration to the permanent registry book, unless it be shown that a civil suit has been filed to annul the registration; in which case he shall suspend registration in the permanent registry book pending the final result of such suit. The entry in the permanent registry book shall be an effectual protection of the under-tenure so registered, unless within 60 years from the date of registry a decree be passed at the suit of Government by a civil court, pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue.

Rights of a purchaser of an estate not permanently settled sold for its own arrears.

XLII. The purchaser of an estate sold under this Act for the recovery of arrears due on account of the same in districts other than those mentioned in Section XXXV. shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, saving always and except *bonâ fide* leases of ground for the erection of dwelling-houses, or buildings, or for offices thereunto belonging, or for gardens, tanks, canals, watercourses, or the like purposes, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect. Provided, that nothing in this Act contained shall be construed to entitle any purchaser of land at a public sale to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid than was demandable by the former malgoozar, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, in consequence of abatements having been granted by the former malgoozars from the old established rates by special favour, or for a consideration, or the like, or in cases in which it may be proved that, according to the custom of the pergunnah, mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Rights of a purchaser being a sharer in any estate.

XLIII. Excepting shares in estates under butwarrah who may have saved their shares from sale under Sections XXXIII. and XXXIV. Regulation XIX. of 1814, and those who have done so under Section X. or Section XI. of this Act, any recorded proprietor or co-partner who may purchase in his own name or in the name of another the estate of which he is proprietor or co-partner; or who by re-purchase or otherwise may recover possession of

Appendix, No. 7.

And of a purchaser of an estate not sold for its own arrears.

the said estate after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, and due for the current or last preceding year, shall by such purchase acquire the estate subject to all its incumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or ryots which were not possessed by the previous proprietor at the time of the sale of the said estate.

Recovery of arrears due to defaulters.

XLIV. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or ryots, shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day.

Punishment for contempt.

XLV. Any collector or officer exercising the powers of collector in respect to sales, shall be competent to punish any contempt committed in his presence in open cutcherry or office for the time being, by fine, to an extent not exceeding 200 Company's rupees, commutable, if not paid, to imprisonment in the civil gaol for a period not exceeding one month; and the magistrate to whom such an offender may be sent by a collector as aforesaid, shall carry his sentence into effect. Provided, that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final.

Default in making deposit to be considered a contempt.

XLVI. A default to make good a bid by making the deposit required by Section XXII. of this Act shall be held to be a contempt.

Government may purchase at a sale.

XLVII. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the collector may purchase the estate on account of the Government, in which case the Government shall acquire the property, subject to the provisions of this Act.

Fees and charges demandable by collector.

XLVIII. The collector on the part of the Government shall be entitled to demand from applicants under Sections X. or XI. or Sections XXXVI. or XXXVII. of this Act, fees and expenses not exceeding the rates specified in Schedule (B.) to this Act annexed, which Schedule shall be taken as part of this Act; and applications under the said Sections shall not be received unless the said fees and charges are tendered therewith.

Regulations VII. 1822, and IX. 1825, to be in force in certain estates.

XLIX. The provisions of Regulation VII. of 1822, and Regulation IX. of 1825, shall be in force in every estate in any part of which a measurement, survey, or local inquiry may be made under this Act; and in every estate purchased on account of Government under Section XLVII. of this Act.

Interpretation.

L. In the construction of this Act the word "Collector" shall include a deputy collector, or other officer exercising by the authority of Government the powers of a collector or deputy collector.

Application and commencement of this Act.

LI. The operation of this Act shall be confined to the provinces and places in the Presidency of Fort William, in Bengal, which are or shall be subject to the general regulations of that Presidency; and this Act shall commence to have effect on the 1st of May 1856.

SCHEDULE (A.)

I certify that A. B. has purchased under Act No. of the mehal (or share of a mehal) specified below, standing in the towjee of the district of , and that his purchase took effect on the day of (being the day after that fixed for last day of payment).

(signed) *D. E.* Collector.

Specification.

(If of an entire Mehal.)

Towjee number.
Name of mehal.
Name of the former proprietor.
Sudder jumma.

(If of a share of a Mehal.)

Towjee number of the entire mehal.
Name of the entire mehal.
Sudder jumma of the entire mehal.
Description of the share sold.
Subordinate towjee number of the share sold,
Name of the former proprietor of the share sold.
Sudder jumma for which the share sold is separately liable.

SCHEDULE (B).

FEES.

	Rs.	*a.*	*p.*
For filing an application under Section X. or Section XI. for opening a separate account for a share of an entire estate :			
If the annual jumma of the share do not exceed 500 rupees - - - -	10	–	–
If the annual jumma of the share exceed 500 rupees and do not exceed 2,000 rupees, at the rate of two per cent. upon the jumma.			
If the annual jumma of the share exceed 2,000 rupees - - - - -	100	–	–
For filing an application under Section XXXVI. or Section XXXVII. for the registration of an under-tenure :			
If the annual rent of the under-tenure do not exceed 500 rupees - -	25	–	–
If the annual rent of the under-tenure exceed 500 rupees and do not exceed 2,000 rupees, at the rate of five per cent. upon the rent.			
If the annual rent of the under tenure exceed 2,000 rupees, at the above rate up to 2,000 rupees, and at two per cent. upon all above that amount.			

CHARGES.

For measurement, survey, and local inquiry under the provisions of Section XXXVII.,

If the district in which the entire estate is situated has been officially surveyed, at the rate of for every 100 beegas comprised in the under-tenure.

If the district in which the entire estate is situated has not been officially surveyed, at the above rate according to the extent of the under-tenure, with an additional charge at one quarter of the above rate according to the extent of the entire estate.

Fees and charges under this Schedule must be tendered according to the terms of the application. After the disposal of the case the account will be adjusted according to the result of any survey that may be made. Any balance due upon this adjustment shall be recoverable as an arrear of revenue.

ANNEXURE to BILL to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency.

STATEMENT OF OBJECTS AND REASONS.

THE Government of Bengal has recommended certain important improvements of the law for the recovery of arrears of revenue by the process of sale in the Bengal Provinces. The object of this Bill is to improve the law in the points which the Bengal Government has noticed as requiring improvement, according to the spirit of the recommendations of that Government; and this opportunity is taken to amend the law in other points in which it has been found, or is believed to be defective, so that the new law may be a complete sale law in itself, embodying all the amendments which experience and discussion show to be desirable.

2. The Bengal Board of Revenue and the Bengal Government recommend that the previous sanction of the Board of Revenue to sales of land in the province of Cuttack be dispensed with, in order that the process for the recovering of arrears of revenue in that province may be entirely assimilated to the process in force in the other Regulation Provinces under that Board. The papers in which this point has been discussed will be found in No. 1 of the Appendix of this statement. The successful working of the existing sale law in Bengal is admitted by every one; and the general opinion of the revenue authorities is that the 30 years' settlement of the province of Cuttack has made it advisable to adopt wholly in that province the simple and effectual process which is found to work so well in Bengal. This object is carried out by new provisions in Sections III. and IV. of this Bill; and by repealing Regulation X. of 1818, the intention of which was to enforce in Cuttack the system for the recovery of arrears of revenue adopted in the North-Western Provinces, which intention, however, has not been for many years attempted to be carried into effect in practice.

Appendix, No. 7.

3. The Bengal Government recommended the enactment of certain provisions prepared by the Board of Revenue in connexion with a proposed new Butwarra law, having for their object to enable a sharer in a joint estate to open a separate account for the revenue due upon his share, and to secure that share from sale by paying up his portion of the public dues, so long as the other shares in the estate paid their portions, or were saleable at public auction for the amount of their own arrears. This provision has been adopted in Sections X. to XIV. of this Bill. I have added a provision enabling the sharer or sharers not in arrear to purchase the share in arrear, when no bid equal to the amount of arrear is made for it, and thereby to preserve the whole estate from sale. The papers relating to this point form No. 2 of the Appendix.

4. The Bengal Government recommended provisions whereby all under-tenures, though created since the settlement, and at whatsoever rents, should hold good so long as the parent estate should prove to be saleable at public auction for an amount equal to any arrear of revenue that might accrue upon it; and that, whenever this should cease to be the case, the parent estate should be forfeited to Government, who would thereupon make a re-settlement of the whole of it. The discussions on this subject are printed in a separate volume, whereof copies will be circulated with the present papers.

5. I have not adopted this plan. I have substituted for it a system of registration after summary inquiry and survey, which, in all cases in which the tenure is such that it may fairly be upheld both as against the zemindar and as against Government or the auction purchaser, will secure it permanently, whatever may happen to the parent estate.' These provisions form Sections XXVI. to XLI. of the Bill.

6. Of the remaining proposed alterations in the law, which have not been suggested in the papers laid before the Council, it will be sufficient to notice the following.

7. By Section IX. of the Bill, it is proposed to give a mortgagee who deposits money in order to save from sale, to the extinction of his lien, the estate over which his lien extends, when his deposit is applied for that purpose, the same lien for the amount thereof that he had originally over the estate thereby preserved from sale.

8. Section XV. of the Bill enables a proprietor of an estate, by the deposit of money or Government securities, to preserve his estate from all risk of sale by reason of any accident or neglect on the part of an agent.

9. Section XXIX. of the Bill obliges a former proprietor, whose estate has been sold for arrears of revenue, and who has obtained a final decree of Court annulling the sale, to execute that decree within six months after obtaining it, under the penalty of losing all benefit therefrom. The evils of prolonged instability of possession, and prolonged liability to mesne profits, are obvious; and a case is known to have occurred in practice, in which the decree-holder, for his own purposes, designedly postponed the time of re-entering upon his estate for several years.

J. P. Grant.

22 December 1855.

APPENDIX No. 1.

No. 880.

REVENUE

From the Secretary to the Government of Bengal to the Officiating Secretary to the Government of India.

Home Department,
dated Fort William, 24 October 1853.

Sir,

IN 1850 the Board of Revenue proposed to discontinue the practice of realising arrears of revenue in the province of Cuttack by means of dustucks, or written demands served upon defaulters by peons or other servants of the Collector's office.

2. It was represented that the system supported no less than 1,400 peadahs, and that the authorised fees realised by them during the year 1848-49 amounted to 12,952 rupees; and, on the assumption that each peadah is not content with less than five rupees a month, it was confidently conjectured that the amount actually levied on the zemindars in that year may have been 84,000 rupees.

3. It was further represented that the issue of these dustucks is after all ineffectual, as the payment of revenue is not finally enforced until the estates are lotted and advertised for sale, insomuch that the lists of advertised estates sent in 1850 to the Board, with application for permission to sell, "embraced nearly the whole province."

4. Instead of this plan, the Board recommended the adoption of the system of periodical sales in force in Bengal. The Cuttack districts have now been settled for 30 years, and the settlements have been made precisely on the principle of the Bengal settlement, except its permanency.

5. All the local authorities agreed in recommending the change, and some of the zemindars themselves petitioned for it; but the Board were divided in opinion as to whether it could be effected without a change in the law.

6. When the question came before the late Deputy Governor, doubts were felt as to the propriety of the change, and a letter was written to the Board by Mr. Secretary Grant, of which the following are extracts—

"Originally, by section XXXVI. Regulation XII. of 1805, the Bengal process of collection generally was introduced into Cuttack; and practically in Cuttack, as in Bengal, the process of sale became the only coercive process resorted to. The result in Cuttack was very unsuccessful. A great proportion of the estates in the province changed hands; much fraud and abuse were practised, and the collections were not punctually realised. In 1817 a rebellion broke out in the province. In 1818, at the recommendation of the officer who restored the province to order, Regulation X. of that year was passed, the object of which was to remedy the evils above-mentioned by introducing into Cuttack the process generally, by which arrears of revenue are recovered in the Ceded and Conquered Provinces. The change was found very beneficial; and to this day the law for the recovery of arrears of revenue is nearly the same in Cuttack as it is in the Ceded and Conquered Provinces.

"It is most reasonable that the law should be similar in all these provinces, because they are all alike in not being settled in perpetuity. They are also all alike in being now settled for long terms of years.

"The essential distinction between the two processes in the permanently settled and temporarily settled provinces is that, in the former, sale is the first, and in the mass of cases, the only process, and it follows the default of the zemindar as a matter of course; and, in the latter, sale is the last process, in the mass of cases not resorted to at all, and in no case resorted to otherwise than as a special necessity after special inquiry; issue of dustucks at the defaulter's charge, arrest and imprisonment of his person, sale of his personal property, attachment and khas management of his lands, and farming out his lands, being resorted to instead. It follows that the spirit in which the two laws are administered should be very different. In Bengal the revenue is collected mechanically, without trouble to the Collector; in the unsettled provinces the collection of the revenue, punctually, and not oppressively, is a main part of a Collector's duty, and a field for the unceasing exercise of his discretion. It is very evident, that if in any district a Collector should attempt to work the law of the temporarily settled provinces in the spirit in which the law of the permanently settled provinces is legitimately and successfully worked, that is to say, if he should sit still and let the law take its full course in every case indiscriminately, the practical result must be very bad. Yet this bad result would not be attributable to the law.

"Hence it appears to the Deputy Governor that it may be assumed that, if the result of the procedure is good generally, but under the same law and under the same circumstances it is bad in some two or three districts, there is a strong presumption that it is the administration, and not the procedure, that is to blame. Now, this appears to be the present case. The process in the three Cuttack districts is complained of as working ill, whilst, so far as this Government is aware, the process in the North Western Provinces is not so complained of.

"These observations his Honour feels called on to make, because it is not to be concealed that the real effect of the change of procedure in Cuttack, which the Board now recommend, although it may be carried out without any change of law, will nevertheless practically be equivalent to the avowed reintroduction into Cuttack of the Bengal process for the recovery of arrears of revenue. For although the provision of the law would be observed, whereby the previous sanction of the Board is necessary before an estate not permanently settled can be ordered for sale for arrears, it is not proposed that this sanction should be otherwise than indiscriminately given for all estates reported to the Board unless the arrear is paid by a given date; nor, although, to meet the letter of the law, that report to the Board must be a detailed report of estates recommended *nominatim* for sale, is it proposed that it shall be other than an indiscriminate list of all estates in arrear. If the Board's recommendation be adopted, although the law in appearance would remain the same as the law in the Upper Provinces, it would be, in reality, only the Bengal law in an awkward shape. Wherever sales are indiscriminately made, there essentially is the Bengal law in force.

"The grounds on which the Board make their recommendation, are the great evils of the present system in respect to the issue of dustucks and the sale of personal property. It is represented that the authorised and unauthorised expense in peons falls as a heavy and useless addition to their assessment on the smaller zemindars; that dustucks are quite useless, sales being the only practical inducement to the payment of revenue; that the sale of a zemindar's personal property is a violation of his home without being at all effectual as a means of obtaining the dues of the state; and that altogether the system opens a wide door to roguery and abuses of many sorts.

"Here is ground of complaint enough. But the question arises is it the procedure or the administration that is to blame?

"That the procedure does not necessarily involve all these evils in any very high degree seems clear. For to pass by the example of the North Western Provinces where the same law of procedure is administered, if his Honor be not greatly misinformed, without being open to such complaints, it is admitted by Mr. Ricketts, and is maintained by Mr. Mills, that some years ago these objections to the process were not discoverable in Cuttack. It is

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is admitted in short that the discrimination, and the exercise of discretion which the process requires, and with which it used to be administered in Cuttack, are now disregarded.

"In looking at the papers before him, the Deputy Governor sees no lack of proof of this. He is told of there being no list of the dustucks peons engaged; of no account of peons' tullubana being kept, so that no correct return of the tullubana authorisedly levied can be made; of peons serving dustucks being allowed to obtain their pay directly from the zemindars whom they are sent to apprehend; and of dustucks issuing without the knowledge of the Collector; and the number of serving peons being increased, with no higher sanction than the pleasure of a nazir. He finds no mention of the attachment of an estate for arrears, and he finds that every estate in arrear on a certain date is entered mechanically in the list to be reported for sale, and that the sale of every estate reported is sanctioned, as a matter of course, unless the arrear be paid by another given date.

"Here then, to repeat a passage above written, is an 'attempt to work the law of th temporarily settled provinces in the spirit in which the law of the permanently settled pro vinces is legitimately and successfully worked;' the Collectors 'sit still, and let the law take its course in every case indiscriminately;' and the result is such as is reported in your letters now before Government.

"The Deputy Governor can only account for the change of practice which is admitted, by the supposition that lately sufficient pains have not been taken to inculcate upon the collectors of Cuttack the difference of the revenue system, as it is by law established in Cuttack, from that of Bengal where they have been brought up.

"The Deputy Governor, however, entirely agrees with the Board and the local officers in opinion that, if it is to be recognised as a principle that sale is to be the only effectual proceeding for enforcing the payment of the revenue in Cuttack, then certainly all the harassing intermediate processes of dustucks, arrests and sales of personal property should be abandoned. If these vexatious personal processes are ineffectual for the recovery of arrears, they must be purely noxious.

"But in the present state of his information, and above all in the present state of the law, the Deputy Governor must hesitate to recognise that principle in Cuttack; and he must even doubt the propriety of the practical recognition of it, which the present system of indiscriminate sales affords.

"His Honor is of opinion that, before proceeding further in the matter, the Board should put themselves into communication with the Agra Board; forwarding to them copies of these Cuttack reports; asking them how the evils here experienced are avoided under their jurisdiction; and requesting them to give a description of the system of recovering arrears of revenue now in force in the North Western Provinces. The Board and the Government here will then be in a position to judge fairly between the two systems.

"The Deputy Governor does not mean to pronounce that, where an equal and moderate settlement for a long term of years exists, a simple and generally unbending sale law may not be the least vexatious process of realisation, and the one most conducive in the end to the respectability and welfare of the zemindars. But with the recollection of what led to the enactment of Regulation X. of 1818; with the knowledge that under the excellent administrations of Mr. Ricketts and Mr. Mills in Cuttack, no evil was discovered in that law; and with Mr. Mills' adverse opinion before him; he cannot hastily authorise the fundamental change recommended.

"His Honor thinks that the change of system, if introduced, should be accompanied by a law empowering the zemindars to sell, by summary process, mokuddamee tenures under them, and it is admitted by the local authorities that sales operate hardly, in the present state of the law, in the case where only one sharer, or a portion of the sharers in an estate, makes default. At all events, his Honor is of opinion that, if an indiscriminate sale system is to be recognised by authority as the only practical process of realising the revenue in Cuttuck the law should be openly changed. He does not think it would be right to make a change so contrary to the explicit purpose of the existing law as the introduction of the Bengal process into Cuttack, by administering the law in a manner contrary not only to its spirit, but to its express direction. The preamble of Regulation X. of 1818, says that it is expedient to assimilate the system in Cuttack more nearly to that pursued in the Western Provinces; whereas the avowed object of the present recommendation is to do the reverse. The enacting clause of this law directs that the process which it is proposed in every case to omit, shall be gone through before sale 'in ordinary cases,' and sale without such intermediate processes is ordered to be made an exceptional case. The law also directs that in all cases Collectors, on an arrear occurring, shall be particularly careful to inform themselves of the real cause of the default; but the proposal is, that he shall recommend for sale in every case of arrears, as a matter of course.

"It is not to be denied that the papers now before Government tend to show that in practice the sprit of this law is neglected already, and sale is now regarded as the sole effective process. But this so far as His Honor is aware, is not an authorised system, and appears to have been introduced of late years.

"In only one point is the Deputy Governor aware that the revenue officers in Cuttack are at a disadvantage as compared with their brethren in the Upper Provinces; but that point, he admits, is a very important one. It is the absence of pergunnah tuhseeldars who are in the Upper Provinces one of the most useful and most respectable classes of public servants. The great advantage of the tuhseeldaree system is that it affords a trusty officer to every small circle of villages. The want is not remedied by what is apparently the equally expensive system of having a large number of deputy collectors under Regulation IX. of 1833, and uncovenanted officers in charge of the abkaree, because these officers, being mostly at the sudder stations, though they relieve the Collector personally of a great deal of the proper duty of a Collector, are of no use in facilitating his management in the interior of his district, and of no convenience to the people remote from the sudder station. Where the tuhseeldaree system exists, a Collector has as good a hold over the revenue administration of the most distant pergunnah as he has in his sudder pergunnah; and the smallest malgoozar pays his jumma as conveniently to himself in the one as in the other.

"As the Deputy Governor believes that the system of tuhseeldars can be introduced into Cuttack with a saving of expense, and he sees no reason why Cuttack should not enjoy the advantages allowed to all other districts not permanently settled, he will be very ready to consider of its adoption, if the Board are aware of no solid objection to it. He is enabled to say that Mr. Mills, to whom the plan has been mentioned by way of suggestion, approves of it."

7. To this letter the Board replied in their letter No. 622, dated the 9th December 1851, a copy of which with its enclosures is now submitted for the consideration of the Government of India.

8. There is in fact very little real analogy between Cuttack and the North Western Provinces. The settlement in the former is a zemindaree settlement, the rights of all under-tenants and ryots being fixed during the whole period of its duration. In the latter, the settlement is made in detail with all those having a proprietary interest in each village. The dustuck system, which is truly described by Mr. Currie to be a necessary evil, even in the North Western Provinces, is a source of pure mischief in Cuttack, being ineffectual for its object, and recourse having almost always to be had to sale as a final measure of coercion. It was adopted in Cuttack when there was no proper settlement and when the revenue was very unequally assessed. Its abolition is nothing more than the complement of the very perfect zemindaree, though terminable settlement, that has since been effected.

9. The location of officers in the interior of districts, with criminal and fiscal powers, is a measure of which the utility is not confined to Cuttack; but it may be doubted whether, under a zemindary settlement, temporary or permanent, it would be wise to entrust to such officers the duty of collecting the revenue, and thereby to divert their attention from other objects on which it may be far more usefully and beneficially bestowed.

10. It does not appear to his Lordship that any alteration of the law is necessary for the discontinuance of the practice of issuing dustucks. So much of Regulation X. of 1818, as prescribes the issue of dustucks as a necessary preliminary to sale, was repealed by Clause 2, Section II. Regulation XI. 1822; and though the provisions of the former regulation have ever since been acted on, they have not been compulsory but permissive. There can be no necessity for a law to authorise the abandonment of a process which, the law says, may be resorted to or not at the pleasure of the executive. It is only necessary that the Board should give notice in the province that, after a certain date, the process of recovering of arrears by dustuck will no longer be resorted to. To this effect the Board of Revenue have been instructed.

11. The 4th section of the law of 1845, which requires a reference to the Board in each instance before a sale can be held, might be repealed, as regards Cuttack, by a short Act for the purpose (such as that transcribed in the margin)* or, as suggested in my letter No. 775, dated the 15th ultimo, the occasion of revising the sale law as respects under-tenures, and the payment of the dues of joint shareholders on separate account, might be taken to pass a new sale law, embodying all the alterations which experience has shown to be necessary.

I have, &c.
(signed) *Cecil Beadon,*
Secretary to the Government of Bengal.

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* Act No. —— of 1853.—Whereas it was enacted by Section IV., Act No. I. of 1845, that in districts not permanently settled no sale shall take place for arrears of land revenue or other demands of Government, without the special sanction of the Board of Revenue previously obtained in each several case of sale; and whereas it is not expedient that such sanction should be obtained to the sale of land for such arrears or demands in the temporarily settled districts of the province of Orissa, it is enacted as follows:—So much of Section IV., Act No. I. of 1845, as enacts that in districts not permanently settled no sale shall take place for arrears of land revenue, or other demands of Government, without the special sanction of the Board of Revenue previously obtained in each case of sale, so far as the same relates to the province of Orissa, is hereby repealed.

No. 622.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to *J. P. Grant*, Esq., Secretary to the Government of Bengal, Revenue Department, dated Fort William, the 9th December 1851.

LAND REVENUE.

Present:—E. M. Gordon and E. Currie, Esquires.

* MINUTES.—Mr. Ricketts' Minute, dated 27th August last. Mr. Gordon's, dated 25th September. Mr. Currie's, dated 22d ultimo.

Sir,

IN reply to your letter of the 21st February last, No. 266, communicating the observations of his Honor the Deputy Governor of Bengal on the Board's proposition for the abolition of the dustuck system in the Cuttack province, and the substitution in lieu thereof of a tullub chittee followed by sales to be held on certain fixed dates twice in the year, I am directed by the Board of Revenue to submit herewith copies of the Minutes of the Members as per margin,* as well as the correspondence† with the local and other officers on the subject.

CORRESPONDENCE.—Secretary to Sudder Board of Revenue, North Western Provinces, to Secretary to Board of Revenue, Lower Provinces, dated 23d May last, No. 79, with enclosures. Commissioner of Cuttack to Board, dated 29th May, No. 1000, with enclosures. Ditto to ditto, dated 18th June, No. 1135, with enclosure. Ditto to ditto, dated 18th August, No. 1590, with enclosures.

2. In accordance with the desire intimated in paragraph 16 of your letter, the Board forwarded the report of the local officers to the North Western Board, and requested information respecting the system in force in the North Western Provinces, and the mode in which the evils described in the Cuttack reports had been there avoided. A copy of the reply of the secretary to that Board, No. 79, dated the 23d May last, and of the observations of the Cuttack officers thereon, submitted with the Commissioner's letter of the 18th August last, No. 1590, will be found with the correspondence now forwarded.

3. The Board, it will be seen from the minutes, are of opinion that no attempt should now be made to work out the provisions of Regulation X. of 1818, and adhere to their recommendation that the dustuck system be abolished, and that periodical sales be held for the realisation of the revenue. In accordance with his original proposition, Mr. Ricketts advocates half-yearly sales; but the other members concur in the suggestion of Mr. Forbes, the Collector of Pooree, that three sales in the year would be better.

4. Mr. Ricketts does not consider that any change in the law is necessary in giving effect to the proposed change of system; but his colleagues are of opinion that Regulation X. of 1818 must be altered if not abrogated, and that it should be declared, in modification of Section IV. Act I. of 1845, that the previous sanction of the Board is not necessary to the sale of estates in the province of Cuttack.

5. Although opposed to the introduction of the tubseeldaree system of the North Western Provinces, the Board are favourable to the location of revenue officers at a distance from the Sudder station in the manner suggested by the Commissioner in his letter, dated the 29th May. These officers would try all summary suits in their respective jurisdictions, and should be empowered to receive the revenue of such of the smaller zemindars as might prefer paying at their cutcherry to making payments at the Sudder station. The duty of issuing tullub chittees and sale notices to all such parties would devolve upon them, and the establishment of peons necessary for that purpose would form a sufficient guard for the custody and conveyance of the small amount of treasure which would pass through their hands. These deputy collectors might also very properly, the Board think, be entrusted with the management of the abkaree within their respective jurisdictions.

6. With reference to paragraph 24 of your letter, the Board are opposed to the alteration there proposed in the appointment of the Pooree and Balasore Collectors.

I have, &c.
(signed) *A. C. Bidwell*,
Officiating Secretary.

MINUTE by Mr. *Ricketts*.

IN 1817 the European officers were inefficient; the omlah were corrupt and nearly all foreigners; the estates were disproportionately assessed; there was no confidence in the administration. Things are entirely changed. The European officers understand their duties; the omlah are for the most part, if not exclusively, natives of the province; estates are all assessed in proportion to the assets. It is almost impossible to imagine a more complete change than that which has taken place in Cuttack since Regulation X. of 1818 was enacted.

Mr. Forbes, who has been employed in the North West Provinces, explains that the settlement of Cuttack is very unlike the settlement of Western India. "They have not a single point in common. In the North Western Provinces the settlement proceeded from the aggregate to the details, which are generally mutable and uncertain and dependent on the arrangements of the proprietors. In Cuttack the settlement proceeded from the minutest details to the aggregate, and the former have been made fixed and certain by the delivery of pottahs to the resident ryots, and have thus become immutable for the whole period of the settlement." In short, Cuttack has been really settled; the interests of each party in each field have been ascertained and recorded; there is no reason now why a spendthrift zemindar should not be sold out. It is evident when the Western Board ask what checks there are "to prevent the Government from suffering loss from the fraudulent and collusive distribution of the revenue over the various shares of the subdivided villages," that they are entirely ignorant of the complete system under which the land revenue has been assessed in Cuttack. Indeed, it is in Cuttack alone that the theory of a settlement has been completely carried into effect.

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† This correspondence was not among the papers sent up by the Government of Bengal.

Messrs. Allen and Forbes.

The orders of the Government, dated the 21st February, criticising with some severity the plan I proposed, having been communicated to the local officers, two out of the three, and these two gentlemen who for talent and efficiency are considered inferior to none now employed under the Board, have notwithstanding reported that they consider it well suited to the disposition of the people and the condition of the province.

The 6th paragraph of the orders of Government says that the system I proposed will be the avowed re-introduction into Cuttack of the Bengal process for the recovery of arrears of revenue. Such is not the case. No discretion that has existed since 1818 is taken away; no privilege which has existed since 1818 is abrogated. On the contrary, it recognises the indulgence peculiar to the province which virtually has long existed; the demand of revenue is to be strictly enforced twice a year only; while it combines the considerate provisions of the local law, and that provision of the Bengal law which all parties applaud as having prevented sales. The tullub chittee will convey the warning, and afford the zemindars the pretext for being urgent in their own demands which all agree is so necessary; while the last day on which payment will be received being fixed, the Cuttack zemindars will learn to know that, by the day fixed, arrangements for payment must be made, and their besetting failing of procrastination and encouragement of hopeless anticipations of assistance or indulgence will be checked as it has been in Bengal. Instead of "the Bengal law in an awkward shape," it will be the Bengal law suited to the habits, customs, and wishes of the Ooriahs.

In paragraph 18 of the orders of Government it is said that the system I proposed omits the process of which the law directs the observance previous to sale. This is another mistake. I proposed that a tullub chittee should be issued before the estate is lotted for sale, and, when sale has been sanctioned, that notice shall be given of the last day fixed for payment. Mr. Allen writes: "I am strongly in favour of Mr. Ricketts' proposition. I have diligently endeavoured to ascertain the sentiments of the landholders upon this question, and am thoroughly satisfied that a vast majority of them are favourable to the abolition of dustucks, and to fore-known and fixed days for last payments and sales. The dates proposed by Mr. Ricketts have, I find, given very general satisfaction. The tullub chittee would be a sufficient warning to careless and thoughtless zemindars, though, in my opinion, forgetfulness of the obligation is but rarely the cause of default."

Mr. Forbes writes: "I have perfect confidence in the stability of the settlement of the land revenue of this province, if the people be only protected from the extortion and rapacity of Government officials. If Government in 1818 were compelled to enact the extraordinary law, it has since, at the vast cost incurred in making a detailed settlement of the land revenue of the province, done the utmost to make amends for the barbarous policy it was then compelled to pursue; and all that the province, in my opinion, now requires, is to be relieved from the last remnant of the barbarous policy of A. D. 1818. This may best be done by adopting the plan for the realisation of the land revenue proposed by Mr. Ricketts."

Mr. Forbes, as well as Mr. Allen, see in my plan the welfare of the people, and the punctual realisation of the public dues, and as, though the plan has been known for above six months, not a single objection has been preferred against it, I think we may conclude that Mr. Allen is right when he says it will be acceptable to the people. With the local authorities and the people on my side, I cannot for a moment doubt that the plan would be successful. In fact it embraces no great change. It would merely systematise existing arrangements, and prevent abuses. I can see no occasion for a law when, as I have shown, there is nothing in the existing laws to prevent its introduction.

I hope and believe that the abuses which the local authorities represent to have existed of late years, did not exist when I was in Cuttack either as Collector or Commissioner. Doubtless much may be done to prevent them; but I greatly prefer the introduction of a plan under which such abuses cannot be, than to continue a system the successful working of which avowedly depends entirely on the character and habits of the officers employed to carry it out.

I say it without intending the least disparagement of the officers of the present day, that the spirit of the management of former days is not to be restored; and a great many, perhaps a majority, would say it should not be restored. We may write, and exhort, and blame, and encourage, and explain, it will I fear be all to no purpose. If I were to take charge of the Collectorship again, and do the things I used to do, consult the convenience and recognise the necessities of the rent payers, issue dustucks against some and not against others, what would the Commissioner and the Board say? I apprehend there would be grave lectures touching indiscretion, and so forth; but I collected the revenue with approved punctuality, and to the best of my recollection, during an administration of eight years, sold but one considerable estate.

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We may write that "in all cases the Collector, on an arrear occurring, shall be particularly careful to inform himself of the real cause of the default;" but the real cause of default is not to be learned. But, unless we can restore the habits of 1835, the activity, the inclination to serve the people, we shall write in vain. The intimate acquaintance with the people which then existed is now unknown, and I fear cannot be restored in this part of India. It cannot be expected of an assistant that he should devote all his time to become acquainted with the people of a district from which he may be at any moment removed; and officers now become Collectors at a time of life when such habits as used to prevail in Cuttack, in the times alluded to by Mr. Grant, cannot be acquired. For years my camp was my home. What would any Collector or Commissioner now under us say if ordered to pass the months of June and July in a hill tent, 10 feet square. We were young and were used to it; the present race of Collectors is old and unused to it; and the management of those days will not come back at our beckoning, unless we can also beckon back the pay and early promotion which in those days we received.

I would alter nothing in the plan I have proposed. If that cannot be—if dustucks must continue—then I think much of the Western Province system may be adopted with advantage. That there, dustuck bearers do not pilfer because they are paid servants of the Government, I do not believe. Assuredly in this part of the world it is the paid servants of the Government who always pilfer most. The muskooree peon might be satisfied with a dotee; the paid servants of the Government would certainly demand a fare, but the uniform payment appears very desirable. At present the penalty for default is regulated by the distance from the Sudder office. The nazir's share of the tullubana has not been recognised by our code as regards collectorships as far as I can ascertain; and in many respects it certainly is most objectionable that this officer should be permitted to benefit according to the increase in the number of processes issued; but on the other hand, if he is not liberally paid, he will pilfer; and I have great doubts whether an alteration in the system, so far as to allow the nazir no share of the tullubana, will not increase, rather than decrease, the burthens of the people. Supposing a fund to be provided, as it appears to be in Western India, by the imposition of a tax on default, and the nazir to be paid from the tax, still he will demand a gratuity from each peada to whom he gives a badge; and the peada, either in cash, food, or clothing, will levy this payment from the people, who will have to pay very much what they now pay, and the tax besides.

As to the employment of tuhseeldars in Cuttack. What are they to do? There is already a tuhseeldar at Budruck, half way between Cuttack and Balasore, who receives the revenue paid by such small landholders as are unwilling to travel to Balasore. I am very unwilling to scatter officers over the province with the powers of Magistrate and Collector, unless the officers employed be persons whose integrity and independence are beyond all doubts. Moreover the Commissioner in his estimate has made no provision for providing the deputy collectors to be stationed in the Mofussil with treasures and guards which would be necessary.

On vacancies occurring, I think the pay of the Balasore and Pooree officers may be reduced, but not to 1,500. It is the pay, of all others, I would not give them. It is most desirable that an officer should remain in Cuttack for several years. The language, the system, are both peculiar to the province. An officer is not efficient for the first year of his employment in the province. An officer on 1,500 rupees is always in expectation of promotion to a collectorship. There would be a change every second or third year. If 2,000 rupees is allowed, the best of the revenue officers will always be available, and they will remain in Cuttack till entitled by standing to judgeship.

The responsibility connected with the salt agencies must not be forgotten. Besides the work connected with the Aurungs, the salt agent of Balasore has the superintendency of two long double lines of salt chokies, one line to prevent the introduction of salt from the Aurungs into the district, and another line to prevent salt being smuggled from the district into Midnapore and the tributary mehals; while at Pooree the Collector has the management of the extensive Khoordah khass mehals. 2,000 rupees per mensem is the least that should be allowed.

Were there always a covenanted assistant with the powers of a joint magistrate at Balasore, either the deputy collectors under Regulation IX. of 1833, or the abkaree superintendent might be dispensed with; but the place is unhealthy and is often without a covenanted officer of that grade. I would not for the present alter the establishment.

27 August 1851. (signed) *H. Ricketts.*

MINUTE by Mr. *Gordon.*

THE provisions of Regulation X. 1818 have never been strictly, and in all their parts, carried out; and for many years past have been openly departed from. One implied part in the machinery of the above law, the existence of an organised establishment of tuhseeldars, has always been wanting. To collect the revenue in the districts of Cuttack, literally and strictly, under the provisions of the above law is an impossibility. The law requires that, on the occurrence of a balance, the cause of that balance should be immediately ascertained; and no good reason for its existence appearing, the realisation of it should be enforced by the detention or imprisonment of the defaulter, and the attachment, if necessary, of his estate, and the distraint and sale of his personal property.

2. It is obvious that, unless the Collector were possessed of ubiquity, he could not himself fulfil all these requirements of the law. Neither could one man make all the necessary inquiries, if it should be found that the parties who had contracted to pay the Government revenue, did not voluntarily and with punctuality fulfil that contract. Doubtless, without the aid of tuhseeldars, great differences would be found in the administration of different Collectors. A man of activity and energy, a man conciliatory yet firm, and who, by always moving about the district, shou'd become acquainted with nearly every one in it, would of course collect the revenue; but it would be found that even he would not collect it with the exact punctuality required by the law. It seems plain, then, that the law, in all its parts could never have been literally carried out; and latterly—that is, for the last ten years—its provisions have been openly departed from in the matter of sales.

3. After the passing of Act XII. of 1841, Mr. Commissioner Mills, in sending up lotbundees, and soliciting the special sanction of the Board to bring to sale, for the recovery of arrears of revenue, the estates enumerated therein, writes as follows, in his letter dated the 23d March 1842:—

"The officiating Collector of Cuttack, when forwarding his lotbundee, remarks as follows: —'That the greater number of these proprietors will pay up the balances before the day of sale, I have not the slightest doubt; but it is difficult for me to state which will prove the defaulters; I have therefore included all, as the threat of sale under the new Act will have a very salutary effect upon the zemindars, who are too prone to defer payment until the last moment.'"

4. Mr. Mills proceeds to say—"It has always been found necessary to resort to the extreme measure of sale twice a year in the Cuttack province. The threat of a sale is sufficient to enforce payment, and seldom or ever is a sale actually made; but the zemindars are too fond of procrastinating the payment of their dues; and the other processes for the recovery of arrears having failed, we are obliged to have recourse to the one and only strong means, namely the lotting of the estates for sale."

5. Now it appears to me that, whether Regulation X. of 1818 had been well or ill administered up to that time, the above is a plain admission that, by means of the above law, the revenue could not be collected; for it was unquestionably contemplated by that law, that a resort to sale should be the exception, not the rule.

6. To say that the advertisement to sell was a mere threat is, in my opinion, to say nothing to the purpose. In no other district of Bengal, any more than in Cuttack, is a threat to sell followed by an actual sale. The sales are few everywhere, the threat to sell being sufficient for the realisation of the Government revenue.

7. Ever since Mr. Mills wrote the above letter, a list of estates lotted for sale has been submitted twice a year for the Board's sanction, and the bulk of the revenue of Cuttack has been realised by a resort to the threat of a sale.

8. But the great question is, what is to be done now? Is an establishment to be organised, so that the provisions of Regulation X. 1818 shall be strictly carried out, or is a departure from that law to be openly avowed and sanctioned? The first thing observable is the apparent ease with which the revenue is collected on the threat of resorting to a sale. All must allow that the system of issuing dustucks has been loosely administered. But if, by means of a sale law, it is found that the revenue is collected, we naturally ask why such a system should not at once be adopted?

9. Similarity of circumstances between Cuttack and the North Western Provinces, seems to have been assumed by the Legislature, when Regulation X. of 1818 was passed. The nature of the landed tenures in the North Western Provinces is exceedingly complicated; and speaking for myself, I doubt whether I could ever thoroughly understand that subject from the printed accounts of it. Local and practical knowledge, I take it, would be necessary to make me master of the system; yet this much is clear from the published accounts of the system, that often a very large number of persons have an interest both in what is paid to the state and in the surplus profits that remain to be divided amongst that large number after the demand of the state is satisfied, that disputes about those interests are constantly occurring, and that generally the nature of the interest is recorded at the time of settlement. Two conclusions may be drawn from this state of facts; one is, that to enforce the joint responsibility of all the proprietors for the payment of the Government demand, without any inquiry into the liability of the proprietors separately, would be a very harsh measure; the other is, that the adjustment of the disputes by means of the settlement record, and the knowledge of the local officers, is a matter of comparative ease. Thus the collection of the revenue by means of tuhseeldars becomes absolutely necessary, both with reference to the claims which the proprietors may justly lay to the adoption of such a system, and to the sound policy of preserving contentment amongst the agricultural classes.

10. In Cuttack the system is very different now, whatever it may have been when Regulation X. of 1818 was passed. From those in that province who best deserve the name of proprietors, namely, the ancient ryots, and the holders of tenures under different denominations at fixed rents, the Government officers do not collect at all. What each of all these has to pay is fixed with reference to the quantity of the land, and the rate of rent that may prevail in the neighbourhood for that quality of land at the time of settlement.

Appendix, No. 7.

The aggregate of all these separate fixed demands forms the gross rental; from this gross rental a deduction of from 30 to 40 per cent. is made, and the remainder is the Government demand, the right to contract for which has been acknowledged to exist in certain parties, and whose profit is mainly the deduction allowed from the gross rental.

11. This being the state of facts, one naturally asks, why the estate should not be sold, if these men who have entered into agreements to pay the Government demand for a term of years fail to do so, and why a cumbrous system of local officers must be organised to ascertain what shares these men have to pay?

12. A sale, it will be observed, does not deprive those above described as proprietors, of any of their rights. The purchaser can only enforce the terms of the settlement. On the other hand, a shareholder in the settlement made with Government, that is one of those who contract to pay the Sudder jumma, can, by applying for a separation of his share under Regulation XIX. of 1814, secure himself from the injustice of his brother shareholders. It is now under the contemplation of the Board to propose to the Government that a law be passed, rendering a shareholder amongst Sudder malgoozars liable, in the first instance, for revenue only to the amount of his share, the whole estate being still liable for the Government demand, if the price fetched by the sale of the share of any defaulting share holder be insufficient to cover the arrear. I have under preparation the draft of such a law, which heavy current business alone has prevented me from completing. If such a law were passed, and facility given to the Sudder malgoozar to recover from his tenants, by a law of the kind recommended by Mr. Forbes, the Sudder malgoozar or zemindar of Cuttack would have little reason to complain, and there would be little work for the proposed tuhseeldars to perform.

13. It must be borne in mind, as stated by Mr. Collector Forbes, that in all cases of real calamity, such as the occurrence of inundations and serious deficiency of crops, extensive and careful local inquiries are instituted, and suitable suspensions or remissions of the Government demand made.

14. The only case that occurs to me, as showing the convenience of local tuhseeldars, and by consequence of local treasuries, isthat in which the Sudder malgoozars or zemindars of small estates, situated at a distance from the Collector's treasury, are very numerous. I scarcely suppose that the subdivision by inheritance amongst the zemin dars of petty estates in Cuttack has become so minute as of itself to warrant the location of a number of separate treasuries in the interior of a district. Besides it must be remembered that these zemindars voluntarily assume the responsibility of contracting for the payment of the demands upon their estates, and probably find the dignity inherent in the character of a zemindar a sufficient compensation for any inconvenience that may be incidental to such a position. In all such cases, too, the periods of payment are limited in number.

15. It will be seen from the tenor of these remarks, that I am opposed to the plan of organising an establishment in order to carry out strictly the provisions of Regulation X. of 1818. There is no necessity, in my judgment, for such a measure; and I entirely agree with Mr. Forbes that the less the officers of Government interfere with the people, the better. That gentleman has pointed out, also, that separate treasuries would be necessary, though he has over-rated the number.

16. But if we are not to attempt to collect the revenue of Cuttack by a strict adherence to the provisions of Regulation X. of 1818, what change is necessary? All must agree that the system of issuing dustucks, as it has been heretofore conducted, is, to use the words of Mr. Secretary Grant, "purely noxious." When the present subject came before me originally, I recorded an opinion to the effect that there did not appear to me to be any good reason why the sale law, which was in force in Bengal, should not be extended to Cuttack. I refused to admit the fact that the zemindars of Cuttack were ignorant of what they had to pay, or when they had to pay their revenue—that the best proof of this was to be found in the fact that, when advertisements of sale were issued, they invariably paid up their balances—that this fact showed that, when dustucks were issued, it was not inability to pay, but unwillingness that stayed their hands—that, therefore, the issue of dustuck did little or no good—and that the substitution of the threatened process of sale would be less vexatious, and more effectual towards the end in view. I gave up my opinion in deference to those expressed by Messrs. Ricketts and Mills. I must confess, however, after a most careful re-consideration of the whole subject, that I return to my original opinion, with this modification, that I would act upon the suggestion of Mr. Forbes, as set forth in his letter dated the 21st January 1850. Mr. Forbes would issue one demand of payment, and afterwards issue an advertisement of sale if the demand were not paid by a given date. He would have three sales in the year instead of two as recommended by Mr. Ricketts. I think sales thrice, instead of twice in the year, would be an improvement, financially speaking, as contributing to speedy payments, and would be an advantage to the zemindars themselves, as not requiring too much from them at one time, and as lessening the temptation to improvidence.

17. Whether this plan or that of Mr. Ricketts should be adopted, an alteration of Regulation X. of 1818 would, I conceive, be necessary. It is no doubt true, as stated by Mr. Ricketts, that under Clause 4, Section V. Regulation X. 1818, the issue of a written demand, previous to advertisement for the sale of the estate, is discretionary; but inasmuch as the Collector, before he proceeds to an actual sale, is required to be satisfied, that the

other measures authorised in the preceding sections would be insufficient for the realisation of the Government arrear, I do not think that a general resort to sale, without the use of the other provisions of the law, could be regarded as legal. The spirit of the law certainly is that the revenue shall be realised by other means than by sale; and if we determine to make the process of sale the main instrument for the relisation of the revenue, we are bound to make the law conformable to our altered system.

18. If the law should be changed, I would dispense with the necessity of obtaining sanction for the issue of sale advertisements. To apply for sanction would be a mere matter of form, and therefore quite superfluous.

19. Mr. Forbes and the Commissioner are advocates for passing a law empowering the zemindars to sell summarily, and without the necessity of instituting summary suits, the tenures of their tenants. Mr. Allen, the Collector of Balasore, is strongly opposed to such a measure. He thinks it would convey a dangerous power to the zemindar, for which there is no occasion, as he can sell the tenures in question immediately after he has obtained a decree, and that a decree in a summary suit, if the law be vigorously administered, may be obtained in three months. But Mr. Allen appears to have forgotten, that to sell under-tenures in satisfaction of summary decrees, except at the end of the year, is illegal, and is prohibited by the Board's circular, dated the 19th June 1834, No. 16. My strong impression is, however, that this illegality is very general; and it is a question whether it would not be better to legalise this practise, than to proceed upon Mr. Forbes's plan. I would consult Mr. Forbes and the Commissioner on the point, and request the former to prepare the draft of a law making the necessary alterations in Regulation X. of 1818, and empowering zemindars to sell under-tenures, either without the previous institution of a summary suit, or immediately after the obtaining of a decree, as might seem most fit to that officer.

20. I concur with Mr. Ricketts, in thinking, and for the reasons given by him, that to change the appointments at Balasore and Pooree into Deputy, instead of full Collectorships, would be an unwise measure.

25 September 1851. (signed) *E. M. Gordon.*

MINUTE by Mr. *Currie.*

ON the general subject discussed in this correspondence, I have little more to say than that I agree fully in the sentiments expressed in the first 18 paras. of Mr. Gordon's minute.

It is clear that the state of landed property in Cuttack bears a much closer resemblance to that which prevails in the permanently settled districts of Bengal, than to that existing in the North Western Provinces. It is clear too, that although it was the intention of Regulation X. 1818 to assimilate the system of administration in Cuttack to that of the North Western Provinces, yet from the want of Mofussil establishments in the former province it was never fully and effectually carried out; and that, for the last ten years at least, sale advertisements have been the ordinary means of enforcing payment of the revenue. It appears further that the people have become habituated to this mode of coercion, and that dustucks are found to be continually less and less effective. It would seem then that the province is fully ripe for the enforcement of a simple sale law, which is admitted in Mr. Secretary Grant's letter to be "the least vexatious process of realisation, and the one most conducive in the end to the respectability and welfare of the zemindars."

Even in the North Western Provinces where, from the peculiar condition of a large proportion of the landed proprietors, some mode of personal coercion appears indispensable, the dustuck system is, I think, at best a necessary evil. Very much, no doubt, has been done of late years to mitigate the abuses to which it is inherently liable, but after all I cannot regard it with the complacency with which it seems to be viewed by the Western Board. The aggregate amount levied in tullubanah is no doubt small when compared with the aggregate jumma; yet in some districts it amounts to a tolerably heavy tax, and in those districts the number of dustucks is of course very large.* But the levy of the authorised tullubanah is the least part of the annoyance and, in all probability, of the expense which the system inflicts upon defaulters. Though imprisonment for arrears be almost obsolete, the practice of detaining the defaulter in the custody of the nazir, or at the tuhseeldaree cutcherry still continues; and in the latter case there can be no security that the authorised period of ten days is not often exceeded. From Mr. Muir's letter it might be supposed that the tullabanah levied from defaulters provided the whole expense of serving the dustucks and left a considerable surplus to Government; but, from Appendix No. 6 to the "Directions to Collectors," it seems clear that only the extra and temporarily employed peadahs are paid out of the tullubanah, and that no part of the expense of the chuprassees and sowars of the fixed establishment, who must serve a large proportion of the dustucks, is defrayed from that source.

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* For instance, Goruckpore, the revenue of which is, I believe, about 29 lacs. Number of dustucks, 40,192. Tullubanah, 80,456 rupees.

Appendix, No. 7.

The plan proposed in Mr. Gordon's minute is, as it seems to me, identical with that advocated by Mr. Ricketts, with the single modification that the number of sales is to be three instead of two; and this I think an improvement. Should the Government assent to the proposal, which, as observed by Mr. Ricketts, will in fact be only to systematise under authority a practice now actually existing,* I think with Mr. Gordon that it will be necessary to make some modification of the law. It will probably be sufficient to rescind Regulation X. 1818, and declare, in modification of Section IV. Act I. 1845, that the previous sanction of the Board shall not be necessary to the sale of estates in the province of Cuttack. The sales would of course be conducted under section V. of that Act, and the issue of a previous tullub chittee on the occurrence of an arrear is authorised by the original law, Regulation XIV. 1793.

I do not find it stated in the Board's letter to Government, or in any of the other papers, whether it is proposed that the tullub chittee should be served at the expense of the defaulter or of Government. I think that the defaulter should pay for both the tullub chittee, and the sale notice; but if this is done it will be necessary to organise a plan similar to that under which dustucks are served in the North West. It should, however, be so arranged as that the tullubanah will pay the whole expense of the necessary establishment.

The question of providing for the summary sale of mokuddumee and other under-tenures is not without difficulty, and should, I think, be separately considered. It is intended that, under the proposed system, the Collector should exercise all discretion in actually proceeding to sale; and the existence of an arrear due from a mokuddum, which the zemindar has not had opportunity to realise, would be a legitimate ground of indulgence.

With regard to the question of Mofussil establishments, though opposed to the introduction of a tuhseeldaree system, such as exists in the North Western Provinces for collecting the revenue by personal duress, I am favourable to the location of revenue officers at a distance from the Sudder station in the manner suggested by the Commissioner. These officers would of course try all summary suits in their respective jurisdictions, and they should be empowered to receive the revenue of the smaller zemindars who might prefer paying at their cutcherry to making payments at the Sudder station. The duty of issuing tulub chittees and sale notices to all such parties would devolve upon them; and the establishment of peons necesssry for the purpose would form a sufficient guard for the custody and conveyance of the small amount of treasure which would pass through their hands. Whether any of these officers should be vested with the powers of deputy magistrates would depend upon their personal character and qualifications; but I think that they might very properly be entrusted with the management of the abkaree in their respective jurisdictions.

With regard to the Collectorships of Pooree and Balasore, I concur with my colleagues. The duties of salt agent in both those districts are very important; and the office should not, I think, be reduced below, but should rather be better remunerated than that of an ordinary Collectorship.

(signed) *E. Currie.*

22 November 1851.

Note by Mr. Officiating Secretary *Plowden.*

By Regulation X. of 1818, the process, generally, by which arrears of revenue are recovered in the Ceded and Conquered Provinces, was introduced into the province of Cuttack, which is a temporarily settled province.

2. The essential difference between the processes in the permanently settled districts of the Lower Provinces of Bengal and the temporarily settled province of Cuttack is that, in the former, sale is the first, and, in the mass of cases, the only process, and it follows the default of the zemindars as a matter of course; and in the latter, sale is the last process, in the mass of cases not resorted to at all, and in no case resorted to otherwise than as a special necessity after special inquiry; issue of dustucks at the defaulter's charge, arrest and imprisonment of his person, sale of his personal property, attachment and khas management of his lands, and farming out his lands, being resorted to instead.

3. When it becomes necessary to resort to the sale of an estate in a temporarily settled district, the special sanction of the Board of Revenue must be previously obtained in each several case of sale; and the Board are required, at the time of authorising such sale, to fix the latest day on which in each case the arrear or demand due shall be received.†

4. Latterly, the issue of dustucks, under the provisions of Regulation X. of 1818, became wholly ineffectual in the province of Cuttack, as payment of revenue was not finally enforced until the estates were lotted and advertised for sale, insomuch that the lists of estates sent to the Board, with application for permission to sell, came to embrace nearly the whole province.

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* *Note.*—It will not escape observation that the number of estates actually brought to sale under this practice is exceedingly small. Seventeen in 10 years in Pooree, eleven in 6 years in Balasore.

† *See* Section IV. Act I. of 1845.

Appendix, No. 7.

5. The dustuck system having thus become useless as a method of collecting the revenue, at the same time that it was liable to many abuses, and was attended with great expense to the zemindars, the Board of Revenue proposed, in 1850, to discontinue it, and to adopt instead the system of periodical sales in force in the permanently settled districts of Bengal, the Cuttack districts having now been settled for 30 years, and the settlements having been made precisely on the principle of the Bengal settlement, except its permanency.

6. On a reconsideration of the subject, in connexion with objections made by the Bengal Government, and, after further inquiry, the Board adhered to their opinion, and in December 1851 repeated their recommendation for the abolition of the dustuck system, and the substitution of periodical sales for the realisation of the revenue. To give effect to this change, they were of opinion that Regulation X of 1818 must be altered, if not abrogated, and that it should be declared, in modification of Section IV, Act I, of 1845, that the previous sanction of the Board is not necessary to the sale of estates in the Province of Cuttack.

7. In now reporting these particulars, the Bengal Government write as follows:—

"There is, in fact, very little real analogy between Cuttack and the North Western Provinces. The settlement in the former is a zemindaree settlement, the rights of all under-tenants and ryots being fixed during the whole period of its duration. In the latter, the settlement is made in detail with all those having a proprietary interest in each village. The dustuck system, which is truly described by Mr. Currie to be a necessary evil even in the North Western Provinces, is a source of pure mischief in Cuttack, being ineffectual for its object, and recourse having almost always to be had to sale as a final measure of coercion. It was adopted in Cuttack when there was no proper settlement, and when the revenue was unequally assessed. Its abolition is nothing more than the necessary complement of the very perfect zemindary, though terminable settlement, that has since been effected.

"It does not appear to his Lordship that any alteration of the law is necessary for the discontinuance of the practice of issuing dustucks. So much of Regulation X of 1818 as prescribes the issue of dustucks as a necessary preliminary to sale was repealed by Clause 2, Section II, Regulation XI, of 1822; and though the provisions of the former Regulation have ever since been acted on, they have not been compulsory, but permissive. There can be no necessity for a law to authorise the abandonment of a process which the law says may be resorted to or not at the pleasure of the executive. It is only necessary that the Board should give notice in the province that, after a certain date, the process of recovering arrears by dustuck will no longer be resorted to. To this effect the Board of Revenue has been instructed."

8. These views of the Bengal Government will probably be held to be perfectly sound. As regards the law, they are undoubtedly correct.

9. But in order to complete the change, it is necessary that the 4th Section of Act I of 1845, which requires a reference to the Board of Revenue in each instance before a sale can be held, should be repealed as regards Cuttack. The Bengal Government recommend, therefore, that this be done, either by a short Act for the purpose (such as the one transcribed in the margin*), or that the occasion of revising the sale law as respects under-tenures, and the payment of the dues of joint shareholders on separate account, be taken to pass a new sale law, embodying all the alterations which experience has shown to be necessary.

10. This latter course will probably be preferred, in which case these papers should be taken up with those on the subjects abovementioned, and any others which may be pending in relation to the sale law, with a view either to the incorporation of all proposed amendments, which it may be determined to adopt, in one new law, or to the construction of a new sale law embodying all such amendments.

G. Plowden.

28 February 1854.

N. B.—The above Act (drafted by the Bengal Government) would not effect the purpose. Besides the repeal of Section IV, so far as it relates to the Province of Orissa, an amendment would be necessary of Section III, as that province would be left out of the operation of the sale law altogether. Section III relates only to permanently settled districts, which the districts of Orissa are not. It would therefore be necessary, besides taking Orissa out of the rule of Section IV, to bring it within the rule of Section III.

This point will also have to be attended to, if, instead of a special Act for this and other amendments, it be determined to re-cast the present sale law, Act I of 1845.

G. P.

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* Act No. —— of 1854.—Whereas it was enacted by Section IV, Act I, of 1845, that in districts not permanently settled no sale shall take place for arrears of land revenue, or other demands of Government, without the special sanction of the Board of Revenue previously obtained in each several case of sale, and whereas it is not expedient that such sanction should be obtained to the sale of land for such arrears on demands in the temporarily settled districts of the Province of Orissa, it is enacted as follows:—So much of Section IV, Act I, of 1845, as enacts that in districts not permanently settled no sale shall take place for arrears of land revenue, or other demands of Government, without the special sanction of the Board of Revenue previously obtained in each case of sale, so far as the same relates to the Province of Orissa, is hereby repealed.

APPENDIX, No. 2.

EXTRACT of a LETTER from the Government of *Bengal* to the Government of *India* in the Home Department, No. 775, dated 15 September 1853.

Para. 11. There are two admitted defects in the present sale law, one is that a sale of an estate for arrears voids all under-tenures, the other is that shareholders of joint undivided estates cannot save their property from sale by the payment of the quotas due on their respective shares. His Lordship some months ago submitted to the Government of India the project of a law for the correction of the former evil, and the latter will be cured by passing into law the substance of the eight sections of the Board's draft above referred to. In the belief that these measures will provide a remedy for the most objectionable effects of the sale law, his Lordship desires to recommend them strongly for the early consideration and adoption of the Legislature.

12. The Governor has only one addition to suggest to the Board's draft, and that is, that there should be a minimum limit to the amount of jumma which any one or more shareholders of a joint undivided estate should be allowed to pay in one separate account, and that limit his Lordship considers might fairly be fixed at 50 rupees. By the law of 1807, no shareholder was entitled to a division whose sudder jumma was less than 500 rupees, and though this law was afterwards repealed, yet practically the limit has always been high, as it is obvious that a small proprietor could not afford the expense of maintaining an ameen for years, merely to enable him to pay his revenue on separate account.

13. The limit of 50 rupees will not therefore be felt as a hardship, particularly if two or more shareholders are allowed to join together for the purpose, their aggregate jumma not being less than the minimum. If every shareholder, however small his share may be, were to be permitted by law to have a separate account, there would be a risk in every district of such minute payments as those which have occasioned considerable public inconvenience in Chittagong, and which the Government has been at much pains to get rid of.

EXTRACT of a LETTER from the Secretary to the Board of Revenue, Lower Provinces, to the Government of *Bengal* in the Revenue Department, No. 302, dated 20 August 1852.

Para. 10. But Mr. Forbes' plan of reserving from sale, under certain conditions, the shares of those proprietors who should pay their quotas of the Government revenue, appeared to the Board deserving of consideration, and if it were in force, there would apparently be no necessity, they observed, "for adopting his other suggestion of permitting one sharer to sue summarily another defaulting sharer. There cannot be a doubt that, were the plan carried into effect, it would lessen the number of applications for divisions and deprive powerful proprietors of the means of injuring their co-sharers' rights. The only objections to the plan that occurred to the Board, were the multiplication of accounts and the increase of business it would introduce, and the temptations it would hold out to the sharers to collude so as to throw shares with inadequate assets on the hands of the Government. The first set of objections, however, they did not consider to have much force—with an increase of establishment the additional work would give little or no trouble, and in return for so great a boon, it would be perfectly just to meet the expense by the imposition of a tax on the landowners by whom, on account of its smallness, it would not be felt. With respect to the second objection it would, they thought, be removed, if the joint nature of the whole estate should not be altered by reason of the sale of any of the shares, that is, if the whole estate continued to be liable for any arrear not covered by the price of any share that might happen to be sold."

11. The Board thought that reasons of sufficient force had not been advanced for depriving sharers of the right they now possess of enforcing the separation of their shares; and as this right had been admitted in a long course of legislation, they thought its abrogation would not be justifiable except on the ground of necessity, to which point matters had not attained.

12. Entertaining these views, the Board thought it expedient that the whole correspondence above referred to should be circulated for the opinions of the Mofussil officers. With reference to their returns it may be sufficient to observe generally, that the majority * of the officers who pronounced any opinions at all, were in favour of the plan of opening separate accounts with shareholders. Some were opposed to it, but there was little in their

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* *Note.*—Amongst these were Messrs. Dunbar, Gouldsbury, and Taylor, Commissioners; and Messrs. Annand, Bowring, Davidson, Hamilton, Louth, G. Loch, Mactier, Trotter, Torrens, and Yule, Collectors. Those who were opposed to it were Messrs. Gough, Harvey, and Brown, Commissioners, and Messrs. P. Taylor, A. Reid, and Tottenham, Collectors.

objections deserving of the name of argument, and by some the plan did not seem to have been understood. Mr. Brown wrote as if the plan was now in operation, confounding the privilege of exemption from sale at present awarded to a sharer whose share is under butwarra on his paying the arrear due from him, with that of the proposed exemption, without the necessity of the sharer having to apply for a separation of his share. Mr. Harvey seemed in like manner to fall into the same mistake, and he proposed on grounds which appeared to the Board to be wholly insufficient, to put a stop to butwarras altogether.

13. On a consideration of these returns and of the whole subject, the Board have come to the following general conclusions:—1st. That the work of effecting divisions of estates by the revenue authorities at the instance of the shareholders, cannot be altogether dispensed with. 2d. That the existing law for effecting divisions is defective and requires amendment; and, 3dly, that the plan of opening separate accounts with shareholders, advocated by Mr. Forbes, and supported by so many officers of standing and experience, ought to be adopted, subject to such safeguards and restrictions as may be considered necessary.

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20. The Board will now offer some remarks on the third general question of opening separate accounts with shareholders, and reserving from sale the shares of those proprietors who may pay their quota of the Government revenue without the necessity of having previously brought their shares under the operation of the butwarra law.

21. Enough has been written in this letter to show that the proper division of an estate must in very many cases be a work of difficulty. Admitting that, by the better agency it is proposed to introduce and the greater power which it is proposed to confer on those to whom the work is to be intrusted, the difficulty may be lessened, yet it can never be entirely removed. The thing to be done is to distribute interests of varying value and difficult of estimation amongst contending occupants, so that justice may be done to all. And there can be no doubt that industry and discrimination in acquiring the necessary information, as well as judgment and honesty in applying it, are essentially necessary in a high degree, for the proper execution of the task. It is therefore desirable to lessen as much as possible the necessity for butwarras.

22. But there can be no question, as has been stated by many of the local officers in reply to the Board's circular, that the object of the applicants for butwarra in the great majority of cases, is not the separation of their shares, but the saving of their shares from sale by the payment of the exact amount of revenue (and no more) that may be due upon them, and although there has doubtless hitherto been great delay in the completion of butwarras arising from many causes, such as the badness of the agency employed, the inefficiency of the existing law, and the remissness of the revenue authorities, the Board are convinced that that remissness has, in a great measure, arisen from the apathy of the parties concerned, and that the delays are as frequently owing to the indifference of the owners with respect to the consummation of the butwarras as to any other cause.

23. Under this impression it appears to the Board that it is highly desirable to confine the attempts at butwarra to those cases in which the applications for butwarra may be safely assumed to be made in good faith, and in order to ensure this the Board see no better or more certain course than to allow of the opening of separate accounts.

24. It may be suggested that the difficulty might be met by requiring the shareholders to apply, as at present, for a separation of their shares, but allowing the division to remain in abeyance in cases in which it was not pressed by the applicants. The object contemplated by such a scheme would of course be the protection of the interests of the separate shareholders without imposing on them the necessity of a separation, and this might be accomplished by a slight change in the existing law. But the scheme would be founded on a fiction, and could not with credit be sanctioned by the Legislature; whilst it would not meet a numerous class of cases in which a remedy for existing evils is called for, namely, the cases in which the lands of an estate found upon the rent-roll as one distinct and with a fixed jumma, are not separately defined, but in joint and undivided occupancy with other estates having separate numbers on the rent-roll. It is obvious that the applications for the butwarra of a shareholder in such a case could not often be complied with, for the butwarra would comprise the partition of several estates, to which the consent of the proprietors of those estates would be necessary, yet, the poor and honest shareholder in such an estate, without doubt requires protection from a more powerful or fraudulent co-sharer, and this, as it appears to the Board, can be effected in no better manner than by the system of separate accounts.

25. So long indeed as that system can be carried out without the risk to the security of the Government revenue, the Board do not see what valid objection can be urged to the introduction of it, and they think it quite clear that any objection on this score will be entirely obviated by holding that the share sold shall constitute, equally as it did before the sale and before the introduction of a separate account, a part of the whole undivided estate, and that the whole estate shall be liable for any balance that may remain uncovered by the price of the share sold. The increase in the number of accounts will easily be met by an increase of establishment, the expense of which may, without any injustice, be defrayed rateably by those for whose benefit it is incurred.

26. The

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26. The advantages of the plan are numerous and striking. If it is adopted, applications for butwarras will be confined to those cases in which a division is really necessary, and much valuable time will thus be saved to the officers of Government. The number of butwarras being also greatly diminished, the risk to which Government is now exposed of loss of revenue from having separated shares with inadequate assets thrown upon their hands will, consequently, be decreased. The benefit conferred on the honest shareholder by protecting him against a dishonest co-sharer, will be immense. All the shareholders will be relieved from the anxiety they now suffer from uncertainty regarding their partner's payments. Encouragement will be given to shareholders to record their interests in the registers of mutations; and, lastly, by rendering sales of entire estates extremely rare, it will protect the ryots and under-tenants from the gripe of auction purchasers, and give them that increased security in their tenures which it is so desirable to effect.

27. Such are the main grounds upon which the Draft Act has been framed, and enough has now been said to place the Government in possession of all circumstances essential to the full understanding of the objects the Board have in view. The conditions under which parties shall be admitted to separate accounts, with minor provisions for the more efficient execution of butwarras when applied for, will be found detailed in different sections of the Act. On the whole, the majority of the Board believe that the proposed law will be looked upon as a great boon of the agricultural community; and although Mr. Ricketts is inclined to think that, if a plan could be introduced for much more greatly simplifying butwarras, it might be yet more acceptable than the one proposed, by giving independent possession to each sharer, and freeing the ryots from the inconvenience of being answerable for their rents to a numerous body of landlords, he is not prepared to suggest any plan for so facilitating the completion of butwarras, and he is agreed with his colleagues in thinking that the system proposed is, under all circumstances, the best that can be adopted, and one likely to be well suited to the requirements of the case.

EXTRACT FROM DRAFT ACT.

XXIV.—Clause 1.—It being well known that many sharers of joint estates withhold the payment of their quota of the public revenue to the great injury of the other shareholders, who are thus made to pay more than is due from them, and to the great multiplication of applications for divisions, which are preferred, not for the purpose of having the shares of the applicants separated, but to enable them to save their shares from sale, by paying what is legally due upon them, it is hereby enacted that, from the date of the passing of this Act, and subject to the following rules and conditions, shares in joint estates, the proprietors of which shall have paid the Government revenue due upon them, shall be exempted from sale.

Clause 2.—When the sharer or sharers of a joint estate, holding in common tenancy desire to pay their quota of the Government revenue separately, they shall submit a written application to that effect to the collector, attested by two credible witnesses. The application shall contain a distinct specification of the extent of the interest held in the estate by the applicant or applicants, and how it was acquired, that is, whether by inheritance, gift, or purchase. The collector will then cause to be published in his own cutcherry, in that of the judge, in that of the moonsiff, in the police thannah in whose jurisdiction the estate is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If within six weeks from the date of the publication of these notices, no objections are made by any of the other sharers, or any other party interested, the collector will proceed to open an account with the applicant or applicants, and will credit separately to their shares all payments made by them. The date on which the collector shall record his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share or shares of the applicant or applicants are to commence.

Clause 3.—When a proprietor of a joint estate, who pays revenue immediately to Government, and whose share consists of specific lands, desires that the amount of revenue due upon his share shall be paid separately, he shall prefer to the Collector a written application to that effect, attested by two credible witnesses. The application shall contain a specification of the lands comprised in his share, together with a statement of the amount of sudder jumma that was fixed upon it at the time it was created, or which has heretofore been paid on account of it. On the receipt of this application, the Collector will cause to be published the same kind of notice, and in the same places, as that which he is directed to do in Clause 2d of this Section, and in the event of no objection being urged within the time stated in that clause, he will open an account for the share at the proportion of jumma which the proprietor claims to pay, and pass to its credit separately all payments made on account of it. The date from which the share in question shall be considered and treated as a separate one, shall be that on which the Collector records his recognition of it as a separate share.

Clause 4.—If it be objected, by any person having an interest in the estate, either that the applicant has no right at all to the share claimed by him, or that his interest in the estate is less than that claimed by him, or of a different nature, the Collector will institute a summary inquiry into the fact of possession, and if he be satisfied that the applicant is really in possession of the interest claimed by him, he will open a separate account for his share, as directed in the two preceding clauses. If in the case of a claimant of specific lands, the objection be that the jumma alleged by the applicant has never been recognised as the separate jumma of such lands, the Collector will inquire into the fact, and, according as the truth of the objection is established or otherwise, will reject or admit the application.

XXV. In order to guard against errors and confusion of accounts, the Collectors are prohibited from recognising the existence of proprietors holding in common tenancy, and proprietors possessed of specific lands in one and the same estate. As the meaning of the term "common tenancy" implies a right to collect from all the ryots of an estate, the creation of one specific Mehal necessarily converts the remaining lands into a specific Mehal.

XXVI. Whenever the Collector shall have ordered a separate account, or separate accounts, to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due. In all such cases, notice of the intention of excluding the share or shares from which no arrear is due shall be given in the advertisement of sale prescribed in Section VI. Act No. I. of 1845. The estate sold will consist of a share or shares, and these together with the excluded shares, will continue to constitute one integral estate, the share or shares sold being charged with the separate portions of jumma, or the aggregate of the separate portions of jummas, assigned to such share or shares. Provided, however, that nothing contained in this and the two foregoing sections shall bar the indefeasible right of Government to hold the entire estate responsible for the amount of the whole jumma; and if in any case the highest offer or bid for the share or shares exposed to sale shall not equal the amount of arrear due up to the latest date of payment, the Collector shall stop the sale of such share or shares, and if the arrear be not paid up within ten days, shall proceed to sell the whole estate; and such sale shall be made after notification and in the forms prescribed in Section VI. Act I. of 1845; and such notification shall not be published till the expiration of ten clear days from the day on which the first sale was stopped. Provided also, that if the highest offer or bid shall equal the balance due up to the latest date of payment, and the share or shares be sold accordingly, and the purchaser fail to pay the deposit as required by Section XV. Act I. of 1845, or to make good the full amount of the purchase money as required by Section XVI. Act I. of 1845, the Collector shall in either case, if the arrear be not paid up within ten days, proceed to sell the whole estate, after notification in the forms prescribed by Section VI. Act I. of 1845; and such notification shall not be issued till the expiration of ten clear days after the day on which the default shall have occurred.

XXVII. If the whole estate shall be sold owing to any of the causes mentioned in the preceding Section, the provisions of Section XX. Act I. of 1845, in regard to the application of the purchase money, shall in all respects be applicable and be enforced accordingly.

XXVIII. When a share or shares of an estate held in common tenancy, or specific lands in a joint estate, shall be sold, under Section XXII. of this Act, the purchaser shall acquire the share or shares, or the specific lands, subject to all encumbrances existing at the time of sale, and shall not acquire any rights in respect of under-tenants which were not possessed by the previous proprietor at the time of sale.

XXIX. When separate accounts for the shares of an estate shall at any time have been opened by the Collector, those accounts shall be held to describe the true status of the estate until alterations in the accounts, founded on fresh applications from the sharers, and on inquiries similar to those made on the occasion of the original application, shall have been made, and no error in regard to the proprietorship of shares shall be admitted as a ground of suit in any court of justice, against the Collector or Government, if the sharer or sharers shall have failed to notify to the Collector any change that may have taken place in the share or shares, and to apply, as in the original instance, for the alteration of accounts, made necessary by the alteration that may have taken place in the shares.

XXX. As the opening of so many separate accounts may render necessary an increase in the Collector's establishment, and as it is just that the expense of the increased establishment should be defrayed by those for whose benefit it has been incurred, the Board of Revenue are hereby empowered to prescribe rules by which the increased expense shall be made to fall on the parties rateably, and the charge thus imposed shall be levied by the same process as that in force for the realization of arrears of revenue.

Appendix, No. 7.

PAPERS relative to a proposed Revision of Act I of 1845.

(No. 721.)

From the Secretary to the Government of Bengal to *E. Currie*, Esq., Legislative Member of Council for Bengal.

Revenue.

Sir,

Fort William, 21 November 1855.

I am directed to forward herewith for your consideration the original paper noted in the margin,* and to state that the Lieutenant-Governor desires to take this opportunity of requesting you to report what prospect there is of a Bill being introduced to amend Act I of 1845 in respect of securing under-tenures in case of an estate being sold.

2. The subject was referred † to the former Legislative Council of India in 1852, and formed No. 63 in the list ‡ of cases pending before that Council when the present Council was constituted in 1854.

I have, &c.
(signed) *W. Grey*,
Secretary to the Government of Bengal.

Petition of about 245 Zemindars in the District of Tirhoot.

Our representation is this:—There are many petty zemindars in this district, as also several villages which have been subdivided into several portions both by rights of sale and inheritance. For this reason it often happens that petty shareholders withhold paying the Government revenue, and the other shareholders are obliged to borrow money to pay the dues of the defaulters and thereby save the whole estate from being sold. Thus by repeatedly paying for the defaulter, parties who hold large shares are much reduced, till at last, when they fail to obtain loans, their estates are sold. Also, when a petty shareholder withholds payment of the Government revenue, and when this circumstance is not known to his co-sharers having large shares, the whole estate is sold. We therefore pray that Act I of 1845 be revised, and that an enactment be passed directing that the shares of those parties only who neglect to pay the Government revenue shall be sold. When such a rule has been passed, there will be no need of bautwarra, and the incurring of any expense on that account. We further solicit that an istahar be issued to the effect that all shareholders of each talook should, within six months, submit to the Collector a statement of their respective shares, and it is no matter of regret if the defaulters' shares are sold.

(signed) *K. C. Mookerjee.*

26 November 1855.

(No. 488.)

From *Hodgson Pratt*, Esq., Under-Secretary to the Government of Bengal, to the Commissioner of Revenue, Bhaugulpore Division.

Lieutenant-Governor's Camp,
Gourah, Zillah Sarun.

Sir,

I am directed by the Lieutenant-Governor to forward to you for report the accompanying petition from certain zemindars of Tirhoot, praying for such an amendment of Act I. of 1845, that in the case of estates held by several shareholders, the lands belonging to defaulting shareholders only shall be sold for arrears of revenue.

I have, &c.
(signed) *Hodgson Pratt*,
Under-Secretary to the Govt. of Bengal.

Government of Bengal, Revenue,
6 January 1855.

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* Translation of a petition from the zemindars of Tirhoot.
Letter from the Under-Secretary to the Government of Bengal to the Commissioner of Revenue, Bhaugulpore Division, No. 488, dated the 6th January 1855.
Letter from the Commissioner of Bhaugulpore to the Secretary to the Government of Bengal, No. 1625, dated 6th November 1855, with enclosure.

† Government of Bengal to Government of India, Home Department, No. 1049, dated 21st October 1852.
Government of Bengal to Government of India, Home Department, No. 54, dated 3d February, 1854.

‡ Letter from Legislative Member of Council to the Secretary to the Government of Bengal, No. , dated 22d June 1854.
Secretary to Government of Bengal to Legislative Member of Council, No. 1493, dated 3rd July 1854, clause 2 paragraph 3.

(No. 1625.)

From *G. F. Brown*, Esq., Commissioner of Revenue for the 12th or Bhaugulpore Division, to the Secretary to the Government of Bengal, Fort William.

Sir, Bhaugulpore, 6 November 1855.

I have the honour to acknowledge the receipt of Mr. Under-Secretary Hodgson Pratt's letter, No. 488, dated 6th January last, with enclosed petition from certain zemindars of Tirhoot, praying for such an amendment of Act I of 1845, that in case of estates held by several shareholders only the portion belonging to the defaulting shareholders shall be sold for arrears of revenue.

2. This subject has been already reported on by me (as will be seen from the annexed extract, paras. 4 and 5 from my letter to the Board of Revenue, No. 561, dated 5th April 1854), having been forced on my notice by the immense number of butwarrahs always pending in Tirhoot, and the mischief resulting therefrom in a financial point of view; for the payment of the small jummahs into which the Government demand is thereby subdivided cannot be enforced except once a year, and that, too, at the end of the year instead of once a quarter.

In the course of five years ending with 1853, 169 mehals were divided into 669, thereby adding 500 mehals to the district rent roll, many of them with jummahs less than 10 rupees each.

3. The petitioners state, and truly so, that the necessity and expense of butwarrah proceedings would be superseded if the law were altered in the manner pointed out. At present, indeed, in nine cases out of ten, the applicants for butwarrahs have no real desire that their land should be divided, their object being gained * as soon as an order is passed for the appointment of an ameen to make the butwarrah; for from that date they are entitled to the protection which sections XXXIII. and XXXIV. of Regulation XIX. of 1814 are calculated to afford. Whereas, under any other circumstances, the proprietors of joint estates who have distinct interests and pay their revenue separately (as is very much the case in Tirhoot) are kept in a perpetual state of anxiety lest any one of their number should default, either wilfully or accidentally, and thus involve the whole in irretrievable ruin. This liability is particularly felt where, as it often happens, the number of proprietors is large and the amount of shares small; and I believe it to be the occasion of much of the chicanery and litigation for which Tirhoot is so notorious.

4. As already observed in my report to the Board of Revenue, No. 561, dated 6th April 1854, "I have reason to believe that all the evils complained of would disappear could the sale law be altered so as to allow of only the share in arrear being sold, provided the sum bid covered the arrear, and the rest of the mehal exempted from responsibility except where such was not the case."

5. The original petition received with your letter is herewith returned,

I have, &c.
(signed) *G. F. Brown*,
Commissioner of Revenue.

Extract paras. 4 and 5, from a Letter from the Commissioner of the Bhaugulpore Division, to the Address of the Secretary to the Board of Revenue, No. 561, dated the 5th April 1854.

4. In at least nine out of ten cases the parties concerned would be just as well, perhaps better, pleased were the lands not divided, provided their respective shares and jummahs were recorded in the Collector's office and each proprietor held responsible for the revenue of his own share only. Indeed, I have reason to believe that all the evils complained of would disappear could the sale law be altered so as to allow of only the share in arrear being sold, provided the sum bid covered the arrear, and the rest of the mehal exempted from responsibility, except where such was not the case.

5. At all events, Government should not suffer, as is now the case, by large jummahs being so far subdivided as to prevent the Collector's enforcing payment every quarter; for, under the Board's Circular, No. 1, of 22d January 1842, when the jummah is inconsiderable the liability to sale is reduced to only twice, and even to only once a year; and that at the end instead of at the beginning of the year.

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* *Vide* article 8 of the Board's butwarrah series.

Appendix, No. 7.

PAPER relative to the Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the *Bengal* Presidency.*

From Captain *H. W. Cravfurd* to the Clerk of the Council.

Sir,

The Honourable the Legislative Council having, at their sitting of the 17th of May 1856, passed a resolution on the motion of Sir James Colvile that "the petition of Captain Craufurd, presented on the 10th of May, be referred to the Select Committee on the Bill to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency, with an instruction to consider and report upon the propriety of protecting under-tenants against the consequences of a sale for arrears of rent," I hope I may be permitted to lay before the Committee, through you, something explanatory as to that petition, and afterwards to reply shortly to some of the objections that have been made to the Bengal Government's scheme for the protection of under-tenants when an estate is sold for arrears of revenue. I shall also beg to be allowed to say something in reply to the objections that have been made to the extension of protection to cases of sales of under-tenures for arrears; and, lastly, to submit to the consideration of the Committee a scheme for the protection of honest and non-defaulting under-tenants of all degrees and other incumbrancers, from the consequences of a sale of landed property for arrears either of revenue or of rent.

The great experience of some Members of the Committee and their thorough acquaintance with the laws regulating the relations of landlord and tenant as well as with all that has passed during the long discussion of the subject of protecting under-tenures in cases of sale for arrears, relieves me from the necessity of troubling the Committee with any explanatory statement regarding those matters. I might go to great length on the subject, and perhaps with some advantage to my own views, but the time of the Committee is valuable, and I will refrain from trespassing on it at greater length than is absolutely necessary for my purpose.

I am most sensible of the very slight claim I have to the confidence of the Committee, for I am not of long standing in the country, nor have I the honour to belong to that class whose views alone have hitherto had any influence in Indian Legislation. But, I think, if the Committee will grant me such a fair share of its confidence as will induce its members to give a deliberate consideration to the scheme I shall propose, they will perceive in it at least the germ of a simple, consistent, and practicable method of protecting registered incumbrances of all classes from the injurious consequences of sales for arrears under the present law, and that it may be effected without impairing the security of the Government revenue, without altering the system of registration, and without disturbing the basis of either Mr. Grant's or Mr. Currie's Sale Bills.

I will now, with the permission of the Committee, lay before it a short explanation as to my petition, which is not well calculated to lead fully into the subject with which it is to be hoped the Committee will deal *in extenso*. The Council was to go into Committee on a Bill for the consolidation and amendment of the law of sale for under-tenures, which contemplated leaving the subordinate tenures subject to annulment, as at present, on a sale of the superior tenure of arrears. At the same time Mr. Grant's sale law Bill, in which provision is made for the protection of under-tenures in cases of sales for arrears of revenue, was before a Select Committee to be reported on. I certainly had allowed the proper moment for putting forward my prayer to pass by, but I was not at the time resident in Calcutta, and the progress of the Bill had escaped my notice. When Mr. Currie's Bill was first brought forward I had petitioned the Council against legislating on the subject without providing for the protection of under-tenants, and it seemed to me a hard measure for them to have a Bill pressed forward, making substantive changes in the relations of landlord and tenant, and granting increased powers to the former for the destruction of the latter, whose grievance was left untouched. I hurried then to put before the Council a petition praying for certain enactments calculated to protect all incumbrances on under-tenures sold for arrears and to bring all under-tenures under one sale law, which, I thought, would at least lead to a postponement of Mr. Currie's Bill, and that it might follow and not precede that of Mr. Grant to amend the sale law for superior tenures.

The broad principle of the present law for sales of landed property for arrears, whether the property be a zemindarree tenure created by Government or an inferior tenure created by the zemindar, or an under-tenure of that inferior tenure, and so on 'gradatim,' is, that the right of the party to whom the arrears are due is not limited to the simple recovery of the amount of his arrears, but extends to the sale of the tenure free from all the incumbrances that have accrued on it since the time of its creation, whether their extinction be necessary or not for the recovery of the arrears.

The broad principle now contended for, and the justice of which has long since been generally admitted, is that the right of the party to whom the arrears are due should be restricted to the sale of what is necessary for their recovery. It is also contended that it is against the interest of the State, and highly impolitic, to impair the value and the security of all secondary tenures of land, whether as an investment or as a pledge for advances for their improvement, or otherwise, by permitting their annulment to be the consequence of a default in due payment of revenue or rent on the part of their superior.

It is admitted that all tenures, whether zemindarree tenures created by Government or under-tenures created by zemindars and inferior landholders, are answerable in their entirety, as at the time of their creation, for the rent payment then imposed on them—but it is contended that all incumbrances on property to be sold for arrears should be undisturbed as long as the selling value of the property subject to them is equal to the amount to be recovered; and, however defective my petition may be, it is to be hoped that the Committee will make a full report to the Council, on the subject of the application of that principle, in some form or other, to all sales of land for arrears.

I will now attempt a reply to some objections that have been made to the Bengal Government's scheme for the protection of incumbrances in cases of sales of estates for arrears of revenue, and to its extension, modified in conformity with the circumstances, to their protection in cases of sales of under tenures for arrears of rent.

The Honourable Member of the Committee who is the author of the new Sale Law Bill, and who has devoted so much time and thought to the important and complicated question of protection to under-tenures, has thus set forth his reasons for not adopting the Bengal Government's scheme when framing that Bill. "He had strongly approved of this scheme at one time as a great step in advance, but he objected to it because it did not give complete security to under-tenants holding under honest titles at fair rents, and did not therefore do what it ought certainly to be the object of the Legislature to do. The object of the Legislature ought to be to give security to the under-tenant, with the view of encouraging him to lay out capital in the improvement of his land, and certainly, so long as his tenure was liable to be taken from him for no default of his own on forfeiture of the parent estate, so long would he be discouraged from laying out money on the land." At the same time the Honourable Member allowed that the position of under-tenants would be much improved by the adoption of the scheme. If the Honourable Member's objections went no further than this, I should say that he still approved of the scheme, and I should entertain a confident hope that he would not oppose its introduction into his Bill, as subordinate to his own, which would complete the measure of security that he wisely thinks it should be the object of the Legislature to afford. But the Honourable Member has put forward two other objections, to which his ability, experience, and influential position give great weight. I do not despair, however, of showing the Committee that these objections are not of such importance as to justify the rejection of a scheme having so much to recommend it as that of the Bengal Government. One of these objections is, that, in case of forfeiture of the parent estate and a re-settlement by Government, the improving tenant, who had laid out capital on his tenure, would suffer an injustice in the re-settlement from a large enhancement of his rent. This consequence of the sale of an estate for arrears of revenue under the Bengal Government scheme would certainly not be impossible, but its occurrence would be highly improbable. It could only occur when resumption of the estate by Government took place, because it would not fetch, when put up for sale, the amount of arrears due. Now those arrears could amount to no more than a quarterly instalment of the annual revenue, and would, in all probability, be much less, and at either price it may be taken for granted that a tenant who had sunk capital in the improvement of his property would gladly become the purchaser of the estate. He would, however, if Mr. Grant's scheme and that of the Bengal Government were united, of course, before sinking any considerable amount of capital in improvement, secure himself from the chance of resumption by registry under section XXXVI. or XXXVII. of Mr. Grant's Bill. The only remaining objection on the part of Mr. Grant, I believe to be, that fraudulent creations of tenures previous to a sale would be frequent, and that purchasers would therefore find that they had purchased a "losing concern or a bag of law suits, and that landed property would in consequence fall in value." But the provisions for upholding only such incumbrances as were registered at least three months previous to the date of sale would greatly check such proceedings. There would also no longer be any temptation to a zemindar to use up his property in that way; for, instead of being able, as at present, to re-acquire it free from incumbrances by a *benamee* purchase, all his fraudulent incumbrances would, if registered three months before the date of sale, be upheld if the estate subject to them would fetch the amount to be recovered, and, if it would not, his property would be resumed.

It is in ignorance as to what course the Bengal Government will pursue, and in great doubt, from observations that have dropped in debate from the Honourable Member who represents it in Council, whether it will afford any support to the scheme bearing its name and originating with its present head, that I have ventured to trouble the Committee with any argument in favour of it, which, under other circumstances, I might, with great advantage, have left to be put forward by its natural supporters. The Honourable Member representing the Government of Bengal has gone so far as to declare, in his place in Council, that putnee and other tenures of that class are the scourge of the country, and that the legislation contemplated is peculiarly for their security, and calculated to lead to their multiplication. Any argument that I might urge to show that the creation of these tenures usually relieves the ryots from the exactions of an embarrassed landlord, and replaces him by one with whom the primary object is—not the collection of rent, but the encouragement of agricultural operations, might be looked upon with suspicion. But the present head of that Government has, fortunately for me, recorded his opinion on that point in these words, "Perhaps the greatest of all evils belonging to sales is the insecurity which they bring upon under-tenants of all descriptions, and the mischievous power of annoyance and interference and extortion which they give to a new auction purchaser over his under-tenants. If we can ameliorate nothing else belonging to sales, we ought at all events to endeavour to amend this; for, if ever any great improvement is to happen to this country,

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country, it must come by means of the introduction, as under-tenants of zemindars, of men of skill, capital, and enterprise."

It has been objected by Mr. Currie to the application of the same protection to under-tenures of lower degrees that may eventually be granted to those derived directly from the zemindar, that they are so various in kind, and so numerous in Bengal, that it is unsafe to deal with them in that general way, and without knowledge of the special conditions of each. It is difficult, however, to conceive that any of them can have been created under such conditions as would render it unjust to protect it from annulment, in consequence of default on the part of the holder of the superior tenure—provided always, that the under-tenant had not himself defaulted in payment to his superior.

It has also been objected to the extension of this protection to cases of sales of under-tenures, that, although the Government may curtail its own privileges, it has not the same right to deal with the privileges of zemindars and other landholders. But surely, as in the case between the Government and the zemindar, the former has reserved no rights to itself beyond the realisation of the assessed revenue, so, in the case of inferior tenures created by zemindars and others in perpetuity, there are no rights reserved by the landlords, beyond the realisation of the rent imposed on the tenure, that are of sufficient strength to bar legislation for the security and improvement of landed property, and the advantage "*rei publicæ.*" The Legislature has frequently interfered to regulate the conditions of these tenures, and Mr. Currie's Bill, now before the Council, proposes a great alteration in their condition; for whereas now they are only saleable for recovery of arrears at the close of the year, that Bill proposes to give to the landlord the privilege of selling them at any time of the year; and to the Government new privileges, which will much aggravate the insecurity that already affects them so disadvantageously.

The zemindars having sought, and being about to obtain, a change in the condition of these holdings which will be highly advantageous to themselves, it seems to me that they will not be in a position to raise any valid objection, on the grounds stated, to legislation for the protection and security of the under-tenants, and indeed of all registered incumbrancers. With regard to the right of re-entry having been reserved by the zemindar, the Chief Justice, in the debate on this question of the 17th instant, clearly showed that, if it ever had existed, it had been taken away by Clause 3, Section III. Regulation VIII. 1819, which positively declares putnee and other under-tenures to be not avoidable for arrears.

It now only remains for me to put before the Committee the scheme for which I respectfully prayed their deliberate consideration at the beginning of this letter, and I believe that will be most conveniently done in the form of a series of proposals; first, for the amendment of Mr. Grant's sale law Bill for estates, and then for the amendment of Mr. Currie's sale law Bill for under-tenures.

As to Mr. Grant's Bill, my first proposal is that a registry of incumbrances shall be kept in the collectorate of each district in four separate books, three of which are already kept, and have been since the passing of the registration law, in 1793, by the registers of deeds.

Book No. 1 for registry in two divisions, provisional and permanent, of tenures under Sections XXXVI. and XXXVII. of Mr. Grant's Bill.

Book No. 2 for registry of deeds of sale, or gift of lands, houses, and other real property.

Book No. 3 for registry of leases and limited assignments of land, houses, and other real property.

Book No. 4 for registry of deeds of mortgage on land, houses, and other real property, as well as certificates of the discharge of the same.

The books 2, 3, and 4, at present kept by the registers of deeds, should be handed over to the Collectors, upon whom would devolve in future the duty of registering such deeds, as well as those to be registered in the new book No. 1. The Collectors would, of course, receive the present authorised fees for registration, and they should be applied to the support of an establishment for the proper performance of the duties. The registration of small tenures by poor people might be much facilitated by authorising a reduced fee, and permitting provisional registration by moonsiffs for tenures under a certain jumma, to be fixed by the Board of Revenue; the moonsiffs to comply with the provisions of the registration law as regards the validity of the deed to be registered, and to forward it to the Collector for his endorsement and entry in the registry book.

2dly. I propose that the Collector should keep, for each mehal having a separate number in the towzee, an abstract of the existing registered incumbrances on it, in a series of four separate schedules, taken from the four register-books aforesaid.

Schedules 1, 2, and 3 to set forth the following particulars regarding each incumbrance:—The date of registration. The name of the registered incumbrancer. The nature of the incumbrance. The yearly rent, and the term, when the incumbrance is a terminable one. Schedule 4 to show the name of the registered mortgagee, the extent of his lien on the mehal, the amount secured by it, and the conditions of repayment.

These abstracts, once set in order, would give little extra trouble in the collectorate; and, bearing in mind the generally diffused and accurate knowledge possessed by natives of the condition of estates in Bengal, they would, I think, give sufficient notice to intending purchasers at public sales, while the register-books would be open, as usual, for the inspection of parties desiring more special information.

3dly. I propose that a copy of the abstract of existing registered incumbrances on any estate to be sold under Mr. Grant's Bill, form a part of the notification of sale, but that only such incumbrances in Schedules 2, 3, and 4 shall be advertised as were registered three months previous to the latest day of payment of revenue, as fixed under Sections III. and IV. of Mr. Grant's Bill.

4thly. I propose that, in the 35th section of Mr. Grant's Bill, the third exception to the right of the purchaser "to avoid and annul all under-tenures and forthwith to eject all under-tenants," shall stand thus: All incumbrances duly registered in the collectorate and advertised with the notification of sale, and whereon no arrear of rent was due on the latest day of payment of revenue as fixed under Sections III. and IV. of this Act. Provided that, if, when the lot be put up for sale, there be no bid, or if the highest bid be not equal to the amount to be recovered, the Collector shall proceed immediately to offer the lot for sale free from the incumbrances in Schedule 4, and shall so proceed, if the bids be not equal to the amount to be recovered, to offer the property for sale, first, free from the incumbrances in Schedule 3, and then free from those in Schedule 2. I refrain from dealing with Schedule 1. If Mr. Grant's scheme be sound, recourse to the sacrifice of the property registered in it can never be necessary for the realization of the revenue, and in practice I am pretty confident that the sacrifice of any registered incumbrances will be prevented by the holders of them bidding at least up to the amount to be recovered, which can never be large.

As to the protection of incumbrances in cases of sales of under-tenures under Mr. Currie's Bill, it seems to me that the same system may be easily applied for that purpose.

My first proposal regarding that Bill would be to bring sales of putnee tenures under it by repealing the selling clauses of Regulation VIII., 1819, so as to have all under-tenure sold under one law.

2dly. I propose that the collector should keep for each registered under-tenure an abstract of existing registered incumbrances, divided into four classes.

All incumbrances of older standing than the tenure itself to form the first class.

All incumbrances registered in Register book No. 2, and created since the creation of the enure itself, to form the second class.

All incumbrances registered in Book No. 3, and created since the creation of the tenure itself, to form the third class.

All incumbrances registered in Book No. 4, and created since the creation of the tenure itself, to form the fourth class.

I do not propose to form a class of those under-tenures registered under Section XXXVII. of Mr. Grant's Bill, because that system of registration is hardly capable of application to under-tenures not created by the zemindar.

3dly. I propose that a copy of the abstract of existing registered incumbrances on any tenure to be sold shall form a part of the notification of sale, but that only such incumbrances shall be advertised as were registered three months previous to the sale day fixed under the provisions of Mr. Currie's Bill.

4thly. I propose that the rights of all purchasers at sales held under Mr. Currie's Bill be thus defined. (*See* Section XXXV. of Mr. Grant's Bill.)

The purchaser of an under-tenure sold under this Act shall acquire the tenure free from all incumbrances that may have been imposed on it after the time of its creation, and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants with the following exceptions.

1st. All incumbrances duly registered in the collectorate and advertised with the notification of sale, and whereon no arrears of rent were due on the sale day fixed by Government for sales of under-tenures under this Act. Provided that, if, when the lot be put up for sale, there be no bid, or if the highest bid be not equal to the amount to be recovered, the Collector shall proceed immediately to offer the lot for sale free from the incumbrances in class 4, and shall so proceed; if the bids be not equal to the amount to be recovered, to offer the property for sale free, first from the incumbrances in class No. 3, and then from those in class No. 2.

2d. Lands whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed in Sections IX. and X. of Regulation V., 1812, for the enhancement of the rent of any land coming within the second class of exceptions above made, if he considers the same to have been held at an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land for a term exceeding 12 years; but not otherwise.

Provided always, that nothing in this section contained shall be construed to entitle any such purchaser as aforesaid to eject any khoodkasht kudeemee ryot or any resident hereditary cultivator having a prescriptive right of occupancy at fixed rents, or at rents assessable according to fixed rules under the regulations in force, or to enhance the rent of any such ryot or cultivator otherwise than in the manner prescribed by the laws in force, or otherwise than the former proprietor at the time of the creation of the tenure may have been entitled to do.

As Mr. Grant, in his Bill, does not protect unregistered old talookdaree tenures, so, in my proposals as to Mr. Currie's Bill, I have not protected unregistered incumbrances older than the creation of the tenure itself. Had Mr. Grant's Bill not been in existence, the matter might have been differently arranged; but I believe that, at sales of under-tenures

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held under Mr. Currie's Bill, with these provisions the sacrifice of incumbrances will be prevented, as at sales of estates held under Mr. Grant's Bill, by the holders of them bidding at least up to the amount to be recovered, which will always be small.

Begging you to do me the favour to lay this before the Select Committee to which my petition of the 10th instant has been referred,

I have, &c.
(signed) *H. W. Craufurd.*

Calcutta, 26 May 1856.

MINUTE.

SALE LAW IMPROVEMENT BILL.

Letters from Board of Revenue, with Minutes and other enclosures.

THE papers transmitted by the Board on the subject of the Sale Law Improvement Bill, including the Minutes of the Members and the abstracts of Mofussil opinions, as well as the original letters containing the opinions of the officers specially noticed by the Board, will now be transmitted to the clerk to the Legislative Council.

2. I have read these papers, and the printed papers sent down from the Legislative Council, with the care and attention called for by the great importance of the subject of which they treat.

3. In sending up the opinions of the Revenue Officers under this Government, I will add a few words in explanation of my own sentiments, and I will do this as briefly as possible, for the papers are already very voluminous.

4. I would in the first place request particular attention to the remarks of the Board on Section III. of the Bill as to the effect of cutting off in such districts as Sylhet all modes of collecting the revenue except by sale under this Act. At present the revenue in Zillah Sylhet is collected primarily and mainly under the provisions of Section IV. Regulation I. 1801, and there are upwards of 70,000 recorded estates on the Collector's Roll, all minutely sub-divided. It has been doubtful, ever since the passing of the present sale law (Act I. of 1845), whether this mode of collection be legal, or not; but there can, I submit, be no doubt that it ought to be made legal if it be not so.

5. The Board propose that the Section above quoted should be now distinctly re-enacted, with this alteration however, that express sanction of the Board shall not be necessary in every instance, but that the Board be empowered "to invest such Collectors, as they consider proper, with the power of distraining the personal property of revenue defaulters before bringing the estates in balance to sale." I entirely agree with the Board, and desire to submit their recommendation for the favourable consideration of the Legislative Council.

6. The first important alteration of the present law which occurs in the new Bill is to be found in Sections X., XI., XII., XIII. and XIV. By the operation of these Sections a very great boon will be conferred on shareholders of zemindarees, with every one of whom the Collector will be empowered, after certain enquiries, to open separate accounts, bringing to sale for the realization of arrears only those shares which may be actually in balance; and if those shares prove unsaleable, giving to the co-sharers an option, in the first instance, of purchasing them by paying the whole arrear due from them, before actually proceeding to sell the whole estate for the arrear, which power is necessarily reserved in the last resort for the security of the Government revenue.

7. This amendment upon the existing law was originally proposed by the Most Noble the late Governor of Bengal; but it was a part of his Lordship's plan, that the benefit should not be extended to any share, the revenue of which might not exceed 50 rupees. To this it was objected in the Legislative Council, that the object is to confirm the just rights of the sharer by securing his property when there is no default on his part; and that a share paying 40 rupees may be of as much concern to the owner as are estates paying 40 lakhs to the Rajah of Burdwan.

8. I would say, with deference, that I doubt if this objection be sound. The object of the law seems to me not "to secure the just rights of the sharer" absolutely and without reference to the security of Government. For if that were so, it would be unjust in any case to sell out the sharer who had paid his quota. Yet this the proposed law does not scruple to do, even though the sharer may have paid up his full share of the revenue, whenever the Government revenue on the whole estate, *i. e.* on other shares of the estate, cannot otherwise be realized. I apprehend that the sharer in a joint undivided estate, charged with the payment of a certain fixed revenue to Government, cannot properly be said to have any rights except what the law has given him; and among those rights, ever since the permanent settlement, has never been a right to have a separate account as to his share, or to have his interests in any way distinguished from the interests of all other sharers in the estate. What the Government is now disposed to allow (clearly not as a right but as a boon) is avowedly to be limited by all such conditions as may seem necessary for the security of the Government, and if it be for the security of the Government interests to limit this

boon to shares of a certain value, it is surely allowable to do so; nor does it appear to me any reason to the contrary to say, that a sharer has in justice a right to be secured from the sale of his property on payment of his quota, because as I view it, he has in reality no such right, and never had it; nor is it proposed, even by those who use this argument, to give him any such absolute protection.

9. I would submit therefore, that it is quite open to consideration, and may be proposed for consideration without any breach of justice and right, whether or no it be for the interests of Government to grant the boon generally and universally; or whether, on the contrary, it be not advisable to limit it to shares of a certain value as proposed by Lord Dalhousie; and I must say for my own part, that I look on Lord Dalhousie's proposition—more or less modified—as in the highest degree expedient on this occasion.

10. There are a great many districts under the Government of Bengal, including all the districts of the Behar Province, in which the sub-division of shares is carried to a great extent. I walked into a small village a few days ago in the Patna district, which I was told on the spot was divided among or held jointly by seventy sharers; and at Chuppra, I was visited by certain zemindars of old family, whose zemindaree, never large, is now held in seventy-five shares, of which each separate share is owned by three or four different persons. These were spoken of as quite ordinary cases, and it seems obvious that the number of the sharers will go on increasing under the Hindu law up to the limit of starvation, especially if encouraged and fostered by unlimited separate accounts at the Collectorate. The question cannot but occur to me—Is it wise and politic to encourage this? or even if it were wise and politic, how are any conceivable establishments to keep such an enormous mass of small separate accounts?

In Sylhet there are already 70,000 different estates; and, as a specimen of the extent of sub-division, Mr. Glover, the Collector, tells us of one estate which has already 150 recorded sharers, and 800 unrecorded, who, if they think it worth while to pay the fees, may all get themselves recorded as soon as this Bill passes.

11. Now I am driven to believe that, before rushing at once into such a system of account as this Bill will bring upon us, it would be safer at all events to begin with some reasonable limit. If 50 rupees, as proposed by Lord Dalhousie, be considered too high (I confess I do not think it so), let a lower standard be taken. But in any case let the Act be tried first, as it were, on manageable terms. If it works easily, it can afterwards be at any time extended gradually as may seem fit. As at present drawn, it appears to me that the proposed law will, in the words of several of the revenue officers consulted, "swamp the Collector's offices."

12. It is certain that the present law discourages sub-division to a certain extent, and has assuredly a tendency to break up over-divided estates. I suppose that the Legislative Council are not likely to differ from me in the opinion that it is undesirable to extend a pauper proprietary, and will be willing, like myself, to avoid everything that may have a tendency unduly to encourage the "rabbit warren" system of landownership.

13. Whether the plan of a limit be adopted or not, I would submit that it will be advisable to omit from Section XII. the direction to the Collector to "institute summary inquiry into the fact of possession."

14. On this subject I desire to adopt the following observations by Mr. Theobald, which seem to me very worthy of notice. I would add that, under the system now enforced by the Board, no proprietor's name is now recorded by the Collector until he has satisfied himself as to the fact of his possession:—

"And upon these objections, when made, the Collector is to institute a summary inquiry into the fact of possession.

"It has been remarked that recorded sharers have already established their title, and that they ought not to be put to the risk of a second inquiry, which will, in many cases, operate as an invitation and inducement to dispute and litigation on a title which never was questioned before; and following up these views, it has been suggested that the applicant who proves, by a reference to the Collector's books, that he is a recorded sharer, should *ipsa facto* be entitled to have the separate account of his share opened.

"It is to be hoped that this suggestion will be adopted; but if not, it is important to note what is the enquiry which the Collector is to make as the Bill now stands. The inquiry is to be into the fact of possession. Such an enquiry would be a departure from the application. The application refers to grounds of title: possession may, or may not, go with the title. The question, therefore, of the fact of title or truth of the application may be wholly different from the question of possession. If, indeed, unrecorded proprietors were to have the benefit of the Bill, there would be some reason for putting it on the ground of the fact or possession; but I can imagine none why this fact should be inquired into, in the case of persons already recorded as having a title. Moreover, what shall constitute 'possession' is not explained; there is no word in the whole vocabulary of the law which admits of a greater variety of application. Possession may be constructive or direct and actual; by oneself, one's agent or servant, or constituted by facts which show an intention to possess, and merely no adverse claim to the possession by any other person. It has been common, I am informed, for European proprietors to have shares of zemindarees recorded in the names of their managers or servants. Who, in that case, the manager or the proprietor, is in possession? If the latter, is he to lose the benefit of the Bill by reason of his not being recorded, though in possession? One tenant in common may alone receive the rents and pay their shares to other tenants in common; or, a manager appointed by one may be in possession, not for one but for all. Who, in these cases, is in possession? A mortgagee of a share may be in the receipt of the rents, while the mortgagor is the recorded sharer. Is the recorded sharer not to have the benefit of this Bill, or is the possession of the mortgagee to be construed as his possession. This is but a small sample of the cases of no uncommon kind, in which the result of an application must be extremely doubtful, if the right of the recorded sharer is to depend on the question of possession."

15. The next important alteration proposed by this Bill is that contained in Section XV. which allows a zemindar to deposit money or Government securities with the Collector, so that the amount, or the interest in the securities, may be used in liquidation of balances as they arise. I look upon this measure as one which may prove of considerable value and usefulness to absentee zemindars unable to find trustworthy agents, a very general condition of absentee zemindars in this country. I am uncertain, however, whether it be a real affair of the Government to transact agency of this kind for absentees. The provision may (like the institution of the Government agency now about to be abolished) have a tendency to raise the value of Government securities; but I doubt, after all, if it will be made much use of. If it should be largely made use of, it would seem as reasonable in this case as in the case of the Government agency to empower the Collector to charge an agency commission for drawing and applying interest on securities, the private property of individuals. On the whole, and speaking with much deference, I am not greatly in favour of this provision. The Government can now permit a zemindar to deposit cash or paper, when it may think fit in peculiar cases, and did so in the case of the late Dwarkanauth Tagore. I doubt if it be expedient to force the Government to do so in all cases.

16. I come now to the provisions regarding under-tenures, which are in every respect the most important parts of the Bill, and those demanding the most careful consideration; and first of "Ante-permanent settlement tenures," the subjects of the first and second clauses of Section XXXV. of the Bill.

17. As I view the case of these ante-settlement tenures, I am unable to divest myself of the opinion that the proposed change of the law will affect them very disadvantageously. I need hardly say that the present Sale Law (Act I. of 1845) gave to the holders of these tenures no new rights. When that Act declared that an auction purchaser of a zemindaree had no power to avoid or annul (1.) "Istemraree or Mokurruree tenures, which were held at a fixed rent more than twelve years before the permanent settlement," and (2.) "Tenures existing at the time of settlement, which have not been, and may not be, proved liable to increase of assessment on the grounds stated in Section LI., Regulation VIII. of 1793," it declared only what had been the law ever since 1793. The rights of tenants of the two classes above named were given at the same time with the rights conferred upon zemindars, and are coeval with the permanent settlement. They cannot surely be now infringed without injustice; and I would submit that it cannot but be a very serious infringement of those rights to enact, at this time of day—60 years and more after the date of the law which constitutes their charter—that the status then given to them, and declared to be as permanent as the permanent settlement, shall nevertheless now cease and determine altogether, unless the possessors of those rights shall, within three years, come in and register them before the Collector, exposing themselves by that very process to an inevitable sequence of litigation, with all its difficulties and uncertainties, such as they were most unlikely ever to have been in danger of under the existing law, except in the rare event of a sale of the zemindarees to which they belong.

18. If it were proposed to enact that, unless the zemindars of the permanent settlement should now come forward and register before the Collector a number of particulars regarding their zemindarees, certain to provoke and produce a long chain of expensive and uncertain litigation not otherwise likely to arise, and that, failing such registration within three years, their estates should be deprived of the benefits of the permanent settlement, there would undoubtedly be an outcry against the proposition; yet, unless I am under some great error in my view of the question, such a proposition would differ in principle very little, if at all, from that of the present Bill as regards ante-settlement tenures. The rights annexed to these tenures are as old as those annexed to the zemindarees, and they were granted by the same authority, in the same manner, and under the same sanctions. If then it would be unjust now to make registration a condition of the continuance of the permanent settlement as regards zemindarees, and of this no one can doubt, it must surely be equally unjust to make registration a condition of the continuance of the permanent rights guaranteed to the ante-settlement tenures by the law of the permanent settlement.

19. The law of 1793, after declaring the power of cancelling and annulling under-tenures to be exercised by an auction purchaser of a zemindaree, says expressly:—"Nothing contained in this regulation shall be construed to authorise the assessment of any increase upon the lands of such dependent talookdars as were exempted from any increase of assessment at the forming of the Decennial (Permanent) Settlement, in virtue of the prohibition entered in Clause 1st, Section LI., Regulation VIII., 1793. The revenue payable by such dependent talookdars is declared fixed for ever." * How can any novel rule be now made a condition

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* Regulation XLIV. 1793, Sections VI. and VII.

a condition of this legally declared permanency? Yet this appears to me to be what is intended by the present Bill.

20. Nor is this all, for the present Bill proposes to annex to these tenures a new penalty for arrears of rent, such as they were never liable to before, and such as, to my apprehension, they seem to have been guaranteed against by former laws. According to former laws, an ante-settlement tenure might be sold for an arrear of rent,* but it was sold with all its privileges intact; and while the purchaser succeeded to all the rights of the defaulter, the latter received (less the amount in arrear) the full benefit of the purchase-money.

21. But under the law as now proposed, if an arrear, however small, should happen to be due, or can be made to appear as due, on the latest day fixed for the zemindars' payment to Government, every right and privilege attaching to the tenure is to be at once swept away, the tenure is to be no longer excepted from the operation of the ordinary power of an auction purchaser, and it may be avoided and annulled, and its holder ejected at the will of the new zemindar, just as if the holder were a tenant-at-will of yesterday, and as if the laws of 1793 and 1799 had never been enacted for his benefit.

22. It was said, in favour of the registration provision, during one of the debates on the Bill, that to enable a tenant to register must be advantageous to him, "for every holder of an under-tenure was liable to answer to the regular suit of every successive purchaser of the parent estate, because every successive purchaser of the parent estate enters with all the rights of the person with whom the settlement was originally made, and by the force of those rights can put the holder of the oldest under-tenures to the proof."

23. To this I would desire to submit, by way of answer in the first place, that to enable a tenant to register is one thing, and to force him to register on pain of losing his rights on the occurrence of a zemindaree sale is another. The latter is what the present Bill appears to do, and not merely the former.

24. In the second place, I would desire to observe, that successive actions against a tenant who has once succeeded in proving his title on a first action seem very unlikely to take place; and if they do take place, can harm only the plaintiff, and not the tenant, with a decree in his pocket to produce against all comers.

25. Further, I would bring to notice, that revenue sales are extremely rare, and therefore actions by auction purchasers to oust ante-settlement tenants rarer still. An ante-settlement tenant knows this, and is content. But he knows, too, that not every one who has a right is able to prove it, when brought into court for that purpose. If such a misfortune as a sale of the zemindaree should occur, and be followed by an action to try his title, the ante-settlement tenant will do his best to defend himself, and will take his chance of success. But he will surely thank nobody for a law which (like this Bill) will drive him into court, sale or no sale, occasion or no occasion; will put him to a proof which, as the law now stands, he might perhaps never have been called on to produce; and which, whatever the ultimate result to the tenant, will create a litigation, and all the expense and harassment of a litigation, such as, but for the new law, might probably never have come to pass at all.

26. Lastly, I would remark, that this Bill will very probably cause an innumerable quantity of false claims to establish a title under this class of tenure, to be supported by the usual amount of perjury and forgery, to the great detriment of the zemindar during the pendency of the claim, and occupying much of the time of the officers of Government in fruitless labour.

27. It is very probable that I may have mistaken the effect and meaning of the proposed alteration of the law, and that my objections may be therefore imaginary. But if I should be correct in my interpretation, I cannot but be excused for desiring that the provisions above noticed may receive further consideration before they are finally passed into law.

28. This much as to ante-settlement tenures. I will now speak of tenures created subsequent to the settlement, the provisions regarding which in the third clause of Section XXXV., and certain following sections, are perhaps the most remarkable in the whole Bill.

29. The object of the Bill has not been to save from the interference of auction purchasers all post-settlement under-tenures, but only such as are held liable to the payment of rents sufficient to afford a fair proportion of the revenue assessed on the parent estate. Accordingly, it provides that tenures of any description, farms, talooks, putnees, howalahs, theekas, ijarehs, jotes, or by whatever other denomination in use in different districts, may all, after certain inquiries to be made by the Collector as to the proportion of their rents to the zemindaree jumma, be registered; and when registered, shall be for ever safe from the effects of a zemindaree sale.

30. It is no doubt a great and serious grievance, that no man in these provinces can hold or take a tenancy of land under a zemindar without risk of its being annulled by the sale of the zemindaree itself. This risk is certainly much less than it used to be before the

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* Clause 7th, Section XV. Regulation VII. 1799.

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the passing of Act I. of 1845, but it still exists; and while this is the case, there must be a considerable standing difficulty in the way of agricultural improvement. Although, therefore, in the case of tenures now existing, the risk was probably more or less considered when the bargain was made by the tenant, and therefore there may be some room for doubt as to the abstract justice of conferring, at the expense of the zemindar, what is in effect a large pecuniary value on these tenures, beyond what was ever contracted or paid for by the tenant, yet in consideration of the general evil involved in the present insecurity of under-tenures, there seems to be at the present time a general consent of opinion that in some way or other the condition of post-settlement under-tenants ought, for the sake of the public weal, to be made more stable and secure; and to do this, as far as possible, is the purpose of all who are interested in the present Bill.

31. I have, however, after much anxious consideration, arrived at the conviction that the method of attaining the object in view proposed by this Bill is open to very serious, and, I incline to think, insuperable, objections; and this I find to be the general opinion of the most intelligent and experienced officers who have been consulted.

32. It is well known that in most parts of Bengal and Behar whole districts are held in one form or another of under-tenure, the vast majority being post-settlement tenures. Within three years, if this Bill passes, applications will be made to register all these, and a great many more besides, that is to say, fictitious tenures, claims to which are certain to be made up for the occasion. As I read the Bill, too, there is nothing to prevent any fixed tenancy ryots holding directly under the zemindar from applying for registration; and if so, the number of applications may be swelled by thousands. Almost every revenue officer who has considered the subject has assumed as incontrovertible, that, in a great majority of instances, for any one tenant that may apply, the whole zemindaree to which it belongs must be measured, and its assets ascertained and compared, before the conditions of Section XXXVII. can be complied with. It has been endeavoured to prove to me by a very able and experienced native friend, favourable to the present Bill, that this will not be necessary, except in a small proportion of cases, which he was disposed to assume arbitrarily at 5 per cent. of the whole number of applications. I have not been able to agree in this opinion. But even supposing we are to undertake the operation of measuring and ascertaining the assets of as many zemindarees as may be concerned in 5 per cent. of the very numerous applications which will pour in, what a gigantic task to throw ourselves upon, utterly unprepared as we are for any such scale of operation!

33. Or let it even be supposed (which is the most favourable, but surely most improbable supposition,) that not one single zemindaree will have to be measured and valued in consequence of these applications; is it not quite certain that, at the least, a very large proportion of all the under-tenures for which application may be made will have to be measured and valued? And must not even this be, to any officer who knows practically what such operations involve, and what sort of instruments he has to employ upon them, a thing to be contemplated with the most serious apprehension?

34. Accordingly, we find the revenue officers, for the most part, speaking of the proposition as one of extreme difficulty and hazard. Mr. Ricketts, member of the Board, says:—"The ascertainment of this sufficiency to afford a fair proportion would be in many cases next to impracticable." And again:—"In large estates such an inquiry would be interminable." Mr. Dunbar, member of the Board, writes of Section XXXVII.:—"It seems to me impracticable to carry out its provisions as they stand in the Bill. * No Collector could by means of a summary investigation satisfy himself that a new tenure has been created in good faith, so far as the interests of Government are concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed in the parent estate. Nothing short of a detailed process similar to that employed in cases of Buttwarrah could give the Collector the necessary assurance." Lastly, Mr. Dampier, member of the Board, says of Sections XXXVI. and XXXVII.:—"These are the most important parts of the law, and I very much doubt if any summary inquiry could enable a Collector to carry through the objects proposed by them." And further on, after approving of Mr. Ricketts's proposition, that the registration of under-tenures should not ordinarily protect against the Government, he adds:—"If otherwise, the inquiries would be impracticable and interminable."

35. These are the opinions of the members of the Board. Of the Commissioners, Messrs. Davidson, Steer, Young, Samuells, Grote, and Stainforth (now a member of the Board) are all against this part of the Bill, some of them expressing themselves in strong terms against it, while most of the Collectors quoted by the Board object to this part of the Bill, besides several very capable and experienced Deputy Collectors who look on the proposed provisions as in the highest degree difficult, if not, as one of them expresses it, "nearly impracticable."

36. For myself, if the Bill should pass in its present shape, and if, as may surely be anticipated, a large number of under-tenants and self-styled under-tenants come forward for registration, I am unable to imagine how the plan will be carried into effect, except after a prodigious delay, and then, after all, with infinite hazard to the Government revenue.

37. For it is a part, and I apprehend, an inevitable part, of the scheme, that "under-

tenures, for the registration of which application shall be made within the prescribed time, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the summary investigation of the Collector."* But where the applications are numerous there is no saying how this may interfere with the collection of the Government revenue, or what confusion it may bring about. Even those revenue officers who do not think the plan impracticable are mostly of opinion that it will take years to effect the necessary inquiries which are to be made by the Collector. During all these years whole zemindarees, made up chiefly or entirely of "protected" under-tenures, many of them, of course, unreal and got up for the occasion to worry the zemindar, will be unsaleable for arrears, or, if sold, must be sold at far less than their real prices; for who would give the full price, or who could tell the real value of a zemindaree, every foot of which was under a protracted investigation as to its under-tenures, including all the claims and counter claims and boundary disputes, and suits and appeals, and special appeals and frauds, and chicaneries of every description inevitably consequent upon such an investigation, the cost of which must be incalculable, and the result far beyond the guessing powers of the acutest of human kind?

38. And let it be considered also what a prodigious and utterly unmanageable amount of hopeless litigation will, by the proceedings of the next three years, be thrown into our already inadequate and over-burthened civil courts.

39. I pass over for the present the immense litigation before the Collectors and the tens of thousands of "summary investigations," which everybody knows have an inveterate tendency to grow as long and tedious and complicated as the most "regular" investigations. I will pass over also the vast numbers of appeals from the so-called "summary" investigations of the Collectors to the "summary" tribunal of the Commissioner, and thence, unquestionably, in very numerous cases, to the Board of Revenue in Calcutta. I pass over all this, though as all the under-tenants and self-styled under-tenants in the Lower Provinces must apply for investigation or lose their chance for ever; and, as we have been told (*see* Sale Law Debate of 22nd December 1855) that two-thirds of all the lands in Bengal are held in under-tenures, we may conceive what will be the flood of work poured upon the revenue officers by the operation of this Bill. But I am very desirous of calling attention to the necessarily large proportion of these many thousands of cases, which, after passing through all the stages of summary litigation before the revenue courts, will eventually come, first as regular suits, and then in various forms of appeal before the civil courts of the country, from the Moonsiffs up to the Sudder. It seems to me certain that the influx of litigation thus about to be caused will utterly choke and stifle the civil courts, and so produce inevitable delays and arrears, and all the enormous expense and other mischiefs therefrom invariably arising. And if this anticipation be correct, there will surely be an amount of hazard incurred by this part of the Bill far overbalancing all the good at which it aims; and this especially, if it should appear that the essential end in view may be attained without hazard of any such dubious consequences.

40. Now I cannot but think that a slight modification of a plan suggested many years ago, and recently revived and adopted by Lord Dalhousie when Governor of Bengal, may be found, though, perhaps, not wholly free from objection, yet sufficient to ensure all, or nearly all, the essential objects of the present scheme, without involving us in any of its greatest difficulties.

41. That plan was thus described by the Honourable Mover of the present Bill on the 22d December 1855:—"That all under-tenures in an estate, without exception or inquiry, should be allowed to hold as good against an auction purchaser as they were against the former proprietor, as long as the parent estate should be saleable at a price that would cover the arrears of revenue due from it; but that as soon as the parent estate should fail to be saleable at such a price, it should be forfeited to Government, and the whole of the post-settlement tenures should be annulled; whereupon Government should proceed to form a new settlement of the land."

42. Setting aside the unessential objection which in the debate quoted was taken to the plan of "forfeiture," an objection at once obviated by changing forfeiture to Government into purchase by Government, only two substantial objections could, it appears from the debate in question, be found to the plan proposed: one, that it would not ensure complete protection to honest under-tenants holding at fair rates; the other, that it would tend to cause the creation of fictitious tenures, and thereby diminish the value of estates. It may, perhaps, be found that the first objection is capable of being removed by an additional provision, which will certainly improve the plan. The other objection may also, I think, be partially, but very sensibly, obviated; and the residue of objection that will then remain will, perhaps, when carefully examined, appear comparatively slight and inconsiderable, or, at all events, not comparable in weight and importance with the benefits of the plan on the one hand, or on the other, with the much more formidable objections which, I cannot but think, beset the scheme of the present Bill.

43. It will be convenient, in examining these two objections, to invert their order, and treat, in the first place, of the second objection. This second objection was thus stated:—

"If

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* Section XXXVIII.

Appendix, No. 7.

"If this measure" (*i.e.* the measure proposed by Lord Dalhousie) "were introduced, there was no doubt that it would open the way to fraud. There was no doubt that many zemindars would create benamee and other talooks in their estates at inadequate rents, or would pretend to have created such talooks. Their estates might be purchased by persons in ignorance of the fraud, who would ultimately discover that they had bought a losing concern or a bag of lawsuits; and the consequence of frequent bad bargains of this sort would be that the auction value of all zemindarees, even of those in which no such frauds had been really committed, would be diminished. He had no doubt that such fictitious tenures would be created in many cases, and he believed that a general reduction of the value of zemindaree property would be the consequence."

44. Now I would submit that it might go a great way towards removing this objection to enact, regarding tenures created after the passing of the Act, that they should not in any case be valid after an auction sale unless registered. The registry would enable all interested persons to acquire perfect information as to the creation of new under-tenures, so that no auction purchases could hereafter take place "in ignorance of the fraud," but all would know exactly what they were going into; and then, if any one should purchase a bag of lawsuits, it could only be because he was partial to lawsuits, and who then could say him nay?

45. And the further effect of this amendment might surely be, that any diminution of value of zemindarees that might be caused by the fraud of the zemindars would take place only as to the zemindarees in which the frauds had occurred, and would not necessarily or probably extend to others; and there would certainly be no need that we should trouble ourselves to mitigate to the fraudulent zemindar the obvious consequence of his own fraud, namely, the reduced price he would receive for his zemindaree when brought to auction sale.

46. But if any one should pursue this further, and should say that these frauds would soon throw the zemindarees in which they had been committed into the hands of Government, I should reply unhesitatingly that this would be a positive good.

47. It has been matter of question whether the permanent fixing of the Government Land Revenue, which took place in the Lower Provinces under the administration of Lord Cornwallis, was or was not disadvantageous to the country; and plausible arguments have been advanced on both sides. But whatever be the sound judgment as to the question of permanently fixing the Government demand in the land, there has never been any room for doubt, that the manner in which the permanent settlement was actually carried into effect was in the highest degree erroneous and objectionable. The intention of the permanent settlement was to recognise and confirm existing rights in the land, and to prevent encroachment on those rights for the future. The effect of the settlement was, however, to erect into landowners men who were mere tax collectors, and to give them almost unlimited power over all the old village proprietors, thus exposing to hazard a vast mass of long existing rights and creating new and unknown rights of property where they had never been before. The consequences of this (which was quite distinct from the permanent fixing of the Government dues, and need by no means have accompanied that measure) have been deeply injurious to the great body of real proprietors whose rights were sacrificed on the occasion; and the bad consequences of the measure may be traced at the present day in many of the evils which penetrate into and vitiate so much of the constitution of our rural societies. The only chance of breaking any part of this system down (and every breach in it is a blessing to thousands) is through the purchase of zemindarees by Government at auction sales. Opportunities for such purchases occur indeed but rarely, but when they do present themselves, I would submit that they should never be neglected. Every zemindaree so purchased is a population redeemed and regenerated, and well would it be for Bengal and Behar if there were any prospect of such purchases on a far larger scale.

48. This much as regards the second objection to the scheme of the Government of Bengal. As to the first, it may, as I would submit for consideration, be fairly met and sufficiently obviated by providing, as it would I suppose be perfectly safe to provide, that the Government, after purchase of a zemindaree by auction sale, should be debarred from cancelling or enhancing the rent of any tenure which might be proved on mofussil investigation to be honestly and adequately assessed. This would surely "give complete security to under-tenants holding under honest titles at fair rents," and would entirely prevent the possibility of the occurrence of the supposed case of the industrious and the idle talookdars put as an example in the speech of the honourable mover of the Bill already quoted, wherein the industrious talookdar was devoted to ruin under the Bengal scheme for the sole fault of his idle brother. I would submit that, with the amendment now suggested, which could produce no possible hazard to the Government revenue, industry would be as certain of its reward as in the celebrated pictures of Hogarth; and if so, the whole of this first objection would seem to be satisfactorily removed.

49. There is, however, a question regarding post-settlement under-tenures which I have not seen adverted to in any of the debates or correspondence regarding this Bill, but which seems to me very worthy of consideration, namely, whether there are not some under-tenures which, far from encouraging agricultural improvement, are by their nature so ruinous and destructive to the public weal as to render it highly desirable to discourage them by all means in our power, and even to get rid of them as far as possible, instead of doing anything

thing to encourage and perpetuate them; I mean those tenures which are extremely common in Bengal and Behar, and more particularly in Bengal, which convey a right of collecting a half or a fourth or any other share of the rents of a mehal or a division of a mehal or a village. There are numerous cases in which one "khoodkasht ryot" has to pay his little rent in shares to three or four or more talookdars, or other under-tenants of the zemindar; every sharer trying to get the most he can, and to overreach his co-sharer, and the ryot being ground to powder between them all. This is notoriously one of the curses of the country, carrying with it the most bitter and ruinous consequences. In its present shape this Bill will tend to perpetuate the evils of this cruel system; but I would hope that it may on further deliberation be found practicable to take a different course.

50. In advocating the plan (with some amendments) of the Bengal Government, I am fortified by the strongly consenting opinion of Lord Dalhousie, and of some of the best informed and most experienced of the officers who have been consulted on the subject; besides that of at least one well-known non-official person, who has given much attention to the matter, and is highly qualified to speak with authority regarding it.

51. To conclude, then, without affecting any accuracy of legislative expression, but merely as a means of more clearly explaining my sentiments, I would desire, on the subject of under-tenures, to legislate somewhat as follows:—

"The purchaser at a sale held under this Act shall acquire the estate, subject to all leases, assignments or other incumbrances existing on the estate at the time of sale, with the following exceptions; that is to say, the said purchaser shall be entitled to avoid and annul all leases, assignments, and other incumbrances, created subsequent to the passing of this Act, which may not have been duly registered within one month from the date of the deed constituting the incumbrance, and at least three months before the date of the sale; and the said purchaser shall also be entitled to annul and avoid all tenures created since the permanent settlement, whether before or after the passing of this Act, and whether registered or unregistered, the terms of which may entitle each of the holders thereof to collect a share of the rent of each ryot or other subordinate tenant within the tenure in question.

"When an estate is put up for sale under this Act, for the recovery of arrears of revenue due thereon, if there be no bid, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the collector may purchase the estate on account of the Government, and the Government, by such purchase, shall acquire the estate free from all incumbrances which may have been imposed upon it subsequent to the time of settlement, and shall be entitled to avoid and annul all under-tenures and to eject all under-tenants, with the following exceptions:—

"First. Istemraree or Mokurruree tenures, which were held at a fixed rent more than 12 years before the permanent settlement.

"Second. Tenures existing at the time of the permanent settlement, which have not been, or may not be, proved liable to increase of assessment on the grounds stated in section LI. Regulation VIII. of 1793.

"Third. Any tenure created since the permanent settlement, the holder of which may be willing to enter into engagements to pay for the term of the tenure such a fixed rent as the Government may assess upon it, not exceeding in any case two-thirds of the total amount of the ascertained Ryottee or Mofussil assets comprised in the tenure.

"Provided that no tenure created since the passing of this Act shall be entitled to exemption from annulment under the preceding clause, unless the same were duly registered within one month from the date of the deed constituting the tenure, and at least three months before the date of the sale.

"Provided also that no tenure created since the permanent settlement shall be entitled to exemption from annulment under the third clause of this section, if it be a tenure, the nature of which may entitle each of the holders thereof to collect a share of the rent of each ryot or other subordinate tenant within the tenure in question.

"Fourth. Lands held at rents not less than the rent of good arable land in their neighbourhood, whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk."

52. The law framed on this principle will, as I humbly incline to believe, subserve all the essential purposes of the Bill now under consideration, without, as it seems to me, incurring any of its most serious difficulties.

53. It will preserve all under-tenures intact in the event of ordinary sales for arrears of revenue, except in the rare case of a purchase by Government in default of other sufficient bidders; and even in that event, it will assign a limit to the power acquired by Government, which will ensure the stability of all tenures held at fair rents, without in any degree hazarding the Government interests. It will cause no new measurements or Mofussil inquiries, because, when an estate is bought by Government, a Mofussil inquiry must necessarily take place; and this inquiry, which would at all events be made, will disclose all the facts required for the security of the tenant, as well as for the security of Government. It will occasion no increase of litigation, but, on the contrary, immensely diminish it. For, on the one hand, it will cut off all that large class of lawsuits which now occur after a sale between the

auction purchaser and parties claiming rights of permanent under-tenancy; and, on the other, it will send tenants to court against the Government, or Government against tenants, only in those rare and scarcely supposable cases, in which the Government, after a purchase and a measurement, may be unwilling to comply with the provisions of the law in favour of under-tenants holding, or willing to hold, on rents proved by Mofussil investigation to be fair and adequate.

54. The plan proposed will, as I humbly conceive, give to all *bonâ fide* tenants as complete security and stability as they are capable of receiving, nor can I foresee any strong objection to it, but that it will allow a zemindar to create fictitious under-tenures for his own benefit. If however these tenures be created at adequate rents, there is no reason, that I am aware of, why they should not be upheld as well as any other fairly rented tenures. If they be created at inadequate rents, they will be invalid against a purchaser unless registered; and if registered, all the facts regarding them will be known and capable of examination by all interested persons, so that no one need be ignorant of their existence, or with moderate care, of their real nature, before he attempts to bid for the estate.

55. If a zemindar should create a large number of inadequate tenures fraudulently, the value of his estate will fall, and he will suffer in proportion to his frauds. If the frauds have been extensive, the estate will soon become the property of Government by a transfer which, happen when it will, can rarely be anything but advantageous to the prosperity and social advancement of every fair tenant and every honest ryot on the estate.

56. There is yet, as I am disposed to believe, one more advantage connected with this plan, which, if I do not deceive myself, is an advantage of no small importance. If it should hereafter be determined to legislate in like manner for subordinate tenants after the sale of a superior undertenancy, such as a putnee talook and the like, this plan is capable of being applied to them with comparative ease and simplicity. I have expressed my grave doubts whether the plan proposed by the Bill be practicable as regards tenures immediately under the zemindar; but I shall not be accused of over-hasty assertion, if I declare my opinion that there can be no doubt as to the impossibility of applying the plan of the Bill to the cases of subordinate tenures (whose name is legion) under superior undertenancies. The inquiries needful for so applying it could never surely be carried on by Government agency; and to throw them into the hands of private zemindars is never likely to be proposed as a safe and practicable measure of legislation.

57. With these observations, I would now submit the papers for the consideration of the Legislative Council.

Malda, 2 September 1856. (signed) *Fred. Jas. Halliday.*

FURTHER PAPERS relative to the Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency.

(No. 1.)

From the Secretary to Government, North Western Provinces, to the Clerk of the Council.

Revenue Department.

Sir,

I AM directed to forward the accompanying copy of a letter from the Sudder Board of Revenue, North Western Provinces, No. 395, dated the 18th March last, together with copies of the Minutes, therewith submitted, by both members of the Board, regarding the Bill which has been brought before the Council, ' 'to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency."

2nd. The Lieutenant Governor observes that the objections in these Minutes to Clauses 1 to 6, Section V. of the Bill, appear grounded on a misapprehension of the true scope and effect of these clauses, which do not exclude recovery of any outstanding arrears in these provinces by the sale process, but leave the course to be pursued in the province of Benares, and in districts not permanently settled, to the exclusion of Cuttack, the same in all respects as they are at present under Section V., Act I., of 1845.

3rd. With reference, also, to the concluding paragraph of Mr. Jackson's minute, the Lieutenant Governor observes, that the suggestion therein made appears to have been already met by the provisions of Clause 3, Section XXXV. of the Bill.

4th. The Lieutenant Governor fully concurs, however, with the Board in thinking that Sections X. to XII. would, as far as they might be made operative, be calculated seriously to derange and injure the revenue administration in these provinces.

5th. Upon the whole the Lieutenant Governor desires me to express his decided opinion that the new law should not be made to extend to the districts under this Government.

6th. It would, in some of its provisions, have a bad effect in them; and in others, as in those intended for the protection of under-tenures paying rent, it is not applicable to their circumstances.

7th. Sections IX., XLIV., XLV., and XLVI. might, in principle, be with propriety enacted for the North Western Provinces. But experience has not shown them to be practically much required.

I have, &c.
(signed) *C. B. Thornhill*,
Secretary to Government of N. W. Provinces.

Head Quarters, Nynee Tall,
27 May 1856.

From Secretary, Sudder Board of Revenue, to the Secretary to Government, North Western Provinces, dated the 18th March 1856.

Revenue.

Present:—E. A. Reade, Esq., Senior Member, and C. C. Jackson, Esq. Junior Member.

Sir,

I am directed to request that you will lay before his Honour the Lieutenant Governor the accompanying minutes by both members of the Board regarding the Bill to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency.

I have, &c.
(signed) *H. W. Hammond*,
Secretary.

Note by *E. A. Reade*, Esq., Member, Sudder Board of Revenue, on Bill to amend the Law for Sale of Land for Arrears of Revenue.

Section V. of this Draft Act provides, under the third description of arrears, that the sale process shall extend only to arrears of the current year, or of the year immediately preceding. It is further evident from Section XLIII. that the restriction applies to arrears due on account of estates, and to other demands of Government. It is most necessary to protest against this important alteration of the preceding law as respects these provinces, including the province of Benares.

In both, the Government, in the pursuit of a just and beneficial policy, not unfrequently suspends a portion of its demand on account of calamities of season, and further permits the recovery of the instalments stipulated to be postponed, if the nature of the subsequent season in any year be such as to warrant the Collector's abstaining to press the realisation of the addition to the current demand.

Further, large sums of tuccavee are advanced for the purpose of constructing works for agricultural extension and improvement, and the just principle is observed of recovering the amount by instalments, and of deferring the demand of the first instalment till sufficient time has been allowed for the completion of the work and its beneficial operations.

If this provision becomes a part of the statute, the Government will be unable to resort to the only process by which it has a tolerable certainty of recovering demands, payment of which, notwithstanding its liberality and indulgence, is often withheld, and to withhold which this provision would stimulate landowners.

Then, again, it is not unusual to sequestrate, or to sell, estates deteriorated by bad management and dissensions, Government being the purchaser, with the object of restoring the estate by judicious direct management, and by making a complete and accurate record of rights as the preliminary to re-instatement of the excluded proprietors, under engagements to pay up all, or any portion of the original arrear. This must be a work of time, and dependent, also, in some respects, on the nature of seasons; but if the sale process is barred after the lapse of two years, the Government is deprived of its only effectual remedy in case of non-fulfilment of conditions. If a limit must be fixed, it should not be less than 10 or 12 years.

The provisions of Sections X. to XII. are inapplicable to the principle on which settlements have been made, and settlement compacts recorded, in the province of Benares as well as the other North-Western Provinces. Ordinarily the shares of Malgoozaree estates pay their quota through their representatives, the lumberdars, and if every one of the innumerable members of coparcenary communities, contrary to the compact of settlement, shall be held to have the privilege of claiming a separate account in the tehseeldaree, dispensing with the intermediate agency of the lumberdars, the necessity will arise of trebling the tehseel establishment.

It is also unnecessary; for, where partition, not involving the dismemberment of the mehal, is provided for by the settlement compact of future management (such partition being dependent on unanimous consent, or consent of a majority, or individual option, according to the tenor of the agreement) partitions of this description are made, and severalty of account results therefrom. The application of Sections X. to XII. should be excepted, though the sections following are unobjectionable.

It appears to be necessary to add to the exceptions of Section XXXV. as respects the province of Benares.

Appendix, No. 7.

In that province there are many rent-free parcels not exceeding 50 beegas, the titles to which have been declared valid by judicial investigation and decisions in the Civil Court, or in the Settlement Office, under Section VI., Regulation IX., 1825; and, as these investigations are now progressing to completion in all cases, it is desirable to provide protection for such as have been or shall be finally exempted from interference by awards of the Settlement Office and Civil Courts in appeal.

Further, in these provinces there are many numerous parcels of rent-free land not exceeding 10 beegas, released at the discretion of settlement officers from settlement to settlement, and some of large areas exempted with the sanction of Government on the same terms. These also might well be added to the exceptions of Section XXXV.

There are no talookdaree tenures in the province of Benares which resemble those of the Lower Provinces, and exceptions should therefore be made of that province in Sections XXXVI. to XLI.

But, both in the province of Benares and these provinces, there are many proprietary parcel-holders, on whose tenures jummas have been fixed at settlement, which are paid through the Malgoozar of the estate within the limits of which they are situated, or at the tehseeldaries direct, and these also should be declared under protection, if no arrear of revenue be due thereon at the latest day of payment.

It is necessary, to remove doubts and to guard against fraud, that there should be a provision in Section XLVII., empowering the Government, if necessitated to purchase property at a bid below the arrears incurred on the estate, to proceed against other property of the defaulter, if any, and to have recourse to the same measure if the amount bid in any case, cannot wholly be recovered from defaulting bidders. Bids have been made, and deposits lodged on the day of sale by friends and agents of the defaulters, leaving, after all exertions, a deficiency of the general amount, for which the sale process was resorted to, and doubts have been entertained whether, if Government becomes the purchaser at the resale, it has a right to proceed against other property. It is necessary that this right should be declared.

(signed) *E. A. Reade*,
Senior Member.

NOTE by *C. C. Jackson*, Esq., Member, Sudder Board of Revenue, on Bill to Amend the Law for Sale of Land for Arrears of Revenue.

SECTION V. directs that "no estate, &c., shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification." I conclude that it is intended that sale shall be restricted to the recovery of arrears of the descriptions mentioned below, though the literal sense of the sentence would be, that the notification was only requisite for the recovery of arrears of the description explained below; and that, for other descriptions of arrears, the notification was not a necessary preliminary to sale. I entirely concur with my colleague, that the restricting recovery by sale to arrears of the current and of the preceding year, will be attended with much inconvenience in these provinces, certainly with occasional loss of revenue, as it will lead to the relinquishment of revenue demands, which have been postponed either in consequence of bad seasons, or of bad management by the zemindars, or of the recusancy of a portion of the shareholders; these untoward incidents, which are frequent in the management of estates, are remedied by the timely application of other processes of recovery, which, however, would fail of success, if the power of eventual recovery, as a last resource, by sale, were relinquished.

As regards tuccavee, the objection is still stronger, as the inability to recover it by sale process, if due for more than two years, will effectually put a stop to the benefits resulting from judicious advances on that account.

The provision in Section IX. is an improvement of the existing sale law.

The necessity for keeping a separate account for every shareholder in common tenancy or in severalty, who wishes to pay direct, will add much to the labours of the tuhseeldaree department, unless the privilege of paying separately is restricted to the lumberdars, who receive a commission for realising the revenue from subordinate shareholders; or to those who have obtained a separation of their shares under Regulation IX., 1811. I think it would not be advisable to allow the privilege to any shares in common tenancy, indicated only by their fractional denomination, as this ordinarily only denotes that portion of the common profits due to the holder of the share after all expenditure, including the payment of the Government revenue; in fact, the liabilities of shares in common tenancy are not sufficiently specified, and the attempt to adjust the accounts in every case of default, after taking into consideration the lands held seer, would entail endless labours on the tuhseel officers; it is now occasionally done, but the sale of separate fractional shares for arrears due according to the separate account to be kept for each, would render every case of this kind very complicated, and, I fear, offer great facilities and inducements for fraud; as the common tenancy can always be changed into a putteedaree tenure, or holding in severalty; the extending the privilege of paying separately to holders in common tenancy is not necessary.

I should prefer restricting the recovery of revenue due on shares of integral estates to the process of transfer to solvent shareholders; the admission of a stranger into a portion of a coparcenary estate is generally attended with ruin to the rest of the original community, who, if they are able, are always disposed to pay up the arrear of a defaulting coparcener, even with the prospects of his share being attended with eventual loss, rather than see it become the property of a stranger. If sale is resorted to, it is better to sell the whole, but there are, so far as my experience extends, very few cases in the North Western Provinces, in which recovery of revenue cannot be ensured by transfers or farms, or by kham management. Frequent resort to sales is a sure indication of heavy assessment, or of bad management by the revenue establishment, many of the persons on which are constantly on the look out for profiting by the difficulties they have themselves caused in the realization of the revenue; and the sale law, whether in its old or the amended form, offers the greatest facilities for establishing a permanent title in property, and relieves the collector and his establishment of the trouble of adjusting disputes amongst coparceners, or of restoring an estate by judicious kham management.

The proposed law appears to me inferior to the old one, which it rescinds, in the matter of perspicuity; it is not so well adapted for these provinces, and it authorises dangerous facilities for the sale of fractional portions of mehal s held in common tenancy, the sale of which under decrees of Court already cause much confusion, and endless litigation. In the case of decrees there is no longer any doubt of the demand being due from the shareholder whose rights are sold, but not so in the case of a revenue demand, as the default of a shareholder may have been caused in whole or in part by the undue exactions from the cultivators, of his coparceners, or by the difficulties of realising his dues they have placed in the way of the defaulting shareholder.

The most important provision in the new Act is that of Section XV., allowing proprietors or coparceners to deposit Government securities to the amount of the revenue of the entire estate, in fact for proprietors of entire estates to pay their revenue in advance, by keeping Government securities at the Treasury sufficient to meet demands. What are the circumstances which have necessitated such extraordinary precautions we are not informed, and I can only come to the conclusion that the difficulties placed in the way of the payment of the revenue after it became due, have frequently led to the sale of solvent estates: or that, in the absence of the proprietor, no secure place offers for depositing the revenue on his estate to be made available when due, except the Government Treasury. In the case of a coparcener depositing the revenue of an entire estate, it may be supposed that it is intended to guard against the wilful default of the other shareholders, but in such case the appropriation of the deposit, which must be annually repeated to guard against the fraudulent designs of the wilful defaulters, would in the end be attended with ruin to the coparcener making the deposit, unless he had some means of recovering from the wilful defaulters any balance realised from his deposit in excess of his own portion of the revenue. This part of the Act appears to me an abortive attempt to give security to landed property by a partial redemption of the taxes to which it is liable, but it is, in reality, nothing more than forestalling the Government demands at a considerable sacrifice to the party who avails himself of the privilege; whether it would be politic to allow redemption of land tax at 10 or 20 years' purchase is a matter for distinct and separate consideration.

Section XXXVI. applies apparently to the sub-tenures in Bengal called putnee talooks, not to the talookdary of the North Western Provinces comprising several villages or distinct estates, for which the talookdar engages separately or collectively, or receives a compensation for his rights in the shape of a per-centage on the assessment. It allows an important privilege of exempting those under-tenures which existed at the date of settlement from cancelment by sale of the parent estate, if they have been duly registered, after the collector has satisfied himself by inquiry that they have been truly represented by the applicant for registry; and Section XXXVII. allows registry to newly created tenures of this description, after the collector has satisfied himself by survey and other inquiries that the Government revenue will not suffer from their protection against sale process. The protection would be more complete, both for the proprietor of the estate and for the putnee talookdar, if the latter were obliged to show that the sale of the estate was not attributable to his own default, by production of receipt for payment of the rent to which his talook was liable, and by allowing him to deposit that amount in the Government Treasury in the event of its being refused on tender to the proprietor of the estate.

(signed) *C. C. Jackson*,
Junior Member.

(No. 2.)

Petition of the Indigo Planters' Association and Enclosures.

To the Honourable the Legislative Council of *India*.

The humble Petition of the undersigned Members of the Central Committee of the Indigo Planters' Association, on behalf of themselves and the said Association,

Showeth,

That the said Committee have had under consideration the Bill now before your Honourable Council, entitled "A Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency," and have been in correspondence with Mofussil members

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bers with a view to ascertain their opinions respecting it, and which Bill as your petitioners learn on a comparison thereof with the existing law, has been brought in, chiefly with a view to narrow the penal operation of the Revenue Sale Law and better to secure shares in zemindaries and valuable under-tenures to their proprietors against forfeiture under the said law.

That, as respects these, the essential objects of the said Bill, your petitioners regard it with the greatest satisfaction and gratitude, as fraught with benefit to all classes: not only capitalists and zemindars, but, in the opinion of your petitioners, the cultivating classes also.

Your petitioners beg to remark that, besides the under-tenures created immediately by zemindars, and for which protection is provided by the said Bill, there are others of great value which are of the same nature; such, for example, as dur-putnees, dur-izarahs, &c. &c., and it would be a great improvement in the said Bill if the same protection were extended to these also, and your petitioners pray that they may be included in the said Bill.

Your petitioners observe that a very elaborate and complicated procedure is provided by the Bill for the attainment of its objects. Many of the details of this procedure appear to your petitioners open to objections, and, in the view which your petitioners take of them, they tend to impair the value of the proposed protection.

Your petitioners therefore earnestly desire a re-consideration of the details of the said Bill. They annex to this petition a Report on the said Bill, with extracts of correspondence, and submit the same in the hope that they may be found to contain some useful suggestions.

That, subject to such alterations in the details of procedure, as may, on consideration, appear better conducive to the objects of the Bill,—

Your petitioners pray your Honourable Council early to pass the said Bill into a law, with an extension of its benefits to all such other under-tenures, besides those already provided for, as fall within the principle of the said Bill.

And your petitioners shall ever pray.

(Thirteen Signatures.)

Report of the Secretary of the Indigo Planters' Association to the Central Committee, on Bill brought into Council by the Honourable Mr. *J. P. Grant*, entitled "A Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency."

This Bill has been for a very considerable time before the Legislative Council and under discussion, and should in the usual course have been reported upon by me much earlier, but few materials for forming a report have been supplied to me, and they have come slowly. I have endeavoured to supply the want of written communications by personal inquiries of members, and in the result I still remain not free from difficulty. Both on the written and personal communications, it appears to me the objects of the Bill are very generally approved and much desired; but, on the other hand, the details, or that mode or system of procedure on which the attainment of the objects depends, are much distrusted and by some regarded as unfit for the purpose.

In the course also of my inquiries, I have had reason to think that the Bill is not equally acceptable to those whose chief interests are as zemindars; and this has led me to consider whether, on any, and what grounds the zemindars are entitled to oppose the measure.

Though not necessary for the information of members, it is necessary for the orderly treatment of the Bill, that I should premise a short statement of what is the present operation of the Revenue Sale Law, and how it is proposed to be altered.

By the Revenue Sale Law of the Lower Provinces the permanently settled revenue is assessed on zemindaries: a default of payment makes the zemindary peremptorily liable to sale, and a sale sweeps away all but a few especially excepted under-tenures. A zemindary is often held by several persons in common tenancy, and sometimes there are sharers in it whose share consists of distinct integral parts, but the revenue law takes no notice of these divisions of interest. This Bill proposes to recognise as separate interests shares of a zemindary, whether held by several in common tenancy or consisting of distinct and integral parts of the zemindary, and to allow a separate account to be opened in the collector's books of revenue to be paid by each sharer; the advantage to the sharer will be that, in case of default of any sharer, not the whole zemindary will be put up for sale, but only the share of the defaulter. And with respect to under-tenures created by the zemindar, it proposes to protect them against the consequences of a sale of the zemindary: the effect will be that the purchaser of the zemindary will take it, not, as now, freed from, but subject to the under-tenures.

Abstractedly considered these proposals are highly beneficial to sharers in zemindaries and the under-tenure holders. They will be relieved of a great risk, saved much trouble in securing their property, and the tendency of the measure in both cases is to enhance the value of that property.

The two cases of the shares of zemindaries and under-tenures rest on distinct grounds, and must be considered separately. As respects the former, the measure lies solely between the Government and the zemindary sharers. The Government simply proposes to modify the security which it now has for the realization of its land revenue in favour of this class of proprietors. It does, however, reserve to itself, in case of need, the power which it has at present over the whole zemindary, so as to be secure in every event against a loss of revenue. Obviously it is a measure of concession, with perfect liberty to those to whom it is proffered not to avail themselves of it. The advantages are too obvious to need minute description. By dividing the revenue and distributing the burden in the same proportions as the right of property and interest, it facilitates payment. If one sharer falls into arrear, the consequence is confined to that one. It thus brings within the most narrow limits practicable the penal operation of the sale law; and this is an advantage to the entire agricultural community—zemindars, holders of under-tenures, and ryots; for the latter are great, if not the greatest, sufferers by a sale of the zemindary under the present revenue sale laws.

The case of the under-tenures is less simple. The parties concerned are the Government, the under-tenure holder, and the zemindar. There is no connexion between the Government and the under-tenure holder; the only interest which the Government has is in the revenue; but its policy on the plea of revenue has been deeply injurious to the under-tenure holder. Its principle ought to be that, so long as the zemindary is of sufficient value to enable it by a sale to realize its revenue, it is indifferent what under-tenures have been created by the zemindar. Now it is the rents which constitute the value of the zemindary. That value would be impaired by under-tenures on which only pepper-corn or nominal rents are reserved; and this appears to be the only danger against which the Government has to guard. Accordingly the Bill, at the same time that it proposes to relieve under-tenures from the present law, has precautions against admitting to protection those under-tenures on which insufficient rents are reserved. On the part of Government, therefore, the measure is simply a modification of policy in favour of this important class of proprietors, and the sole question which remains is whether it can be objected to by the zemindars.

Now, when I speak of objections, I mean objections founded on some principles of right or equity, and if such there be in this case, they will be found in the contract rights of zemindars. The contract rights of the zemindar may easily be illustrated in the case of the putneedar (who for this purpose may be taken as a representative of under-tenure holders). The putneedar is a purchaser for a price or valuable consideration of a portion of the zemindary lands in perpetuity, with one condition attached, namely, payment to the zemindar of a rent the equivalent (or supposed to be) of the revenue payable for the lands comprised in the putnee. It is this condition which constitutes the tenure, connects the putneedar with the zemindar, and the putnee lands with the zemindary; and, except for the obligation which it contains, the putneedar would have an absolute and indefeasible estate, and would be entirely independent of the zemindar. The putnee rent, therefore, is the only interest which the zemindar has in the putnee lands, and therefore non-payment of that rent is the only ground on which the zemindar can claim any power over the putnee tenure, and it is equally clear that, if the putneedar makes no default, he is fully entitled by his contract to be as secure against the zemindar as the latter is against the Government so long as he pays the Government revenue.

Now compare these principles with the present state of the law. The law at present is, that, if the zemindar makes default in payment of the revenue, his zemindary shall be sold free from the putnee; and the putneedar is sacrificed, not because he has made default himself, but because the zemindar did not pay his revenue. What is proposed is simply that the putneedar shall not in future be sacrificed, and that the purchaser of zemindary, at a revenue sale shall take the zemindary subject to the putnee (and all other under-tenures), except when the putneedar himself is a defaulter, in which case the putneedar forfeits the benefits of the new law. In this proposal I confess I cannot find the smallest flaw in point of equity, and it is perfectly consistent with all the contract rights between the zemindar and putneedar. The only excuse which could be made for any longer continuing the present state of the law, would be the necessity of it for the realization of the revenue. But Government by this Bill denies the necessity.

Few zemindaries comparatively are brought to sale in the present day for arrears of revenue; and of these, except in impoverished parts of the country, a small proportion from the inadequacy of the rents to meet the Government revenue, the rest are put in arrear for fraud, and not unfrequently for the advantage offered by the revenue sale law. They are sold by the Collector, and bought by the defaulting zemindar benamee. The inducement to this fraud is, indeed, great. For example, a zemindary is put up for sale for an arrear of revenue, say of 5,000 rupees, and would be worth half a lack of rupees, if the purchaser were to take it subject to the under-tenures, but taking it free of those tenures (as he does), he will give double that sum for it. This enhancement of price, not needed to satisfy the revenue, swells the surplus after deducting from the proceeds of the sale the amount of revenue due, and is paid over to the zemindar, or if the zemindar himself is the purchaser benamee, he gets the profit by creating new under-tenures. The sacrifice of the putnee tenure, therefore, is no advantage to the Government, but is a clear gain to the zemindar, and it is notorious that zemindaries are wilfully put in arrear by the zemindars for the sake of this and similar advantages, which can only be obtained through the medium of a sale for revenue. But if the case is free from this fraud, and the zemindar unintentionally falls in arrear, the injustice is not the less to the putneedar, nor the profit less to the zemindar: the under-tenure is annulled, the value of the zemindary is enhanced, and the enhanced value goes to the zemindar. He thus gets twice paid for the same thing; first for a putnee on its creation, and next at the auction of the putnee lands, perhaps much enhanced in value by improvements made by the putneedar.

I have taken the case of the putnee holder, but the same reasoning applies to every other valuable tenure, and the evil only differs in degree.

In extenuation of the existing state of the law, it has been said the putneedar purchases his putnee subject to the risk and has estimated it. It may equally be said he purchased with the chance of an improvement of the law; and of all men the zemindar cannot be permitted to object to the removal of the risk, by a better law; for that risk can never become a loss if the zemindar performs his duty. I refer to the obligation which he is under towards the putneedar to pay the revenue.

These remarks will be sufficient, I trust, for the limited purpose for which they are offered, namely, to show that the zemindar has no right to object to the proposed protection to under-tenures.

Having explained the objects of the Bill, and defended its principles, I will proceed to examine the details and the manner in which it is proposed to effect those objects. The provisions respecting sharers of zemindaries are contained in the 10th, 11th, 12th, 13th, and 14th sections. By these, "recorded sharers" alone are entitled to the intended protection, and it has been suggested that it should be extended to those who are sharers in fact, but not recorded. But it has been fairly replied that those sharers who are not recorded may get themselves recorded, and so become in a position to avail themselves of the new law.

The mode prescribed for sharers is to make an "application" to the Collector. For the application of a sharer of a joint estate in common tenancy no particularity is prescribed by the Bill: indeed it is obvious, from the nature of his interest, what must be the form, and that the form would be very simple. But respecting the application to be made by a sharer whose share consists of specific or separate portions of land, the Bill requires that it should specify the land by metes and bounds, and the amount of sudder jumma paid [contributed] by the applicant. This latter form is subject to the same remarks as hereafter will be made on a similar requirement in the case of the under-tenures, and to those remarks I beg to refer.

The Bill having prescribed the "application," next provides for objections to it, and recognises the following:—

(1.) That the applicant has no right to the share.

(2.) That it is less than he claims.

(3.) That it is of a different nature from that claimed by him.

And upon these objections, when made, the Collector is to institute a summary inquiry "into the fact of possession." And in the case of an applicant whose share consists of a separate portion of land, the further objection may be made that he has not stated his jumma correctly, and on that objection the Collector is to inquire whether the alleged jumma has been recognised by the other sharers, and according to the result of his inquiry, to admit or reject the application.

It has been remarked that recorded sharers have already established their title, and that they ought not to be put to the risk of a second inquiry, which will, in many cases, operate as an invitation and inducement to dispute and litigation on a title which never was questioned; and, following up these views, it has been suggested that the applicant who proves by a reference to the Collector's books that he is a recorded sharer, should *ipso facto* be entitled to have the separate account of his share opened.

It is to be hoped that this suggestion will be adopted; but if not, it is important to note what is the inquiry which the Collector is to make as the Bill now stands. The inquiry is to be "into the fact of possession." Such an inquiry would be a departure from the application. The application refers to grounds of title; possession may or may not go with the title; the question, therefore, of the fact of title or truth of the application may be wholly different from the question of possession. If, indeed, unrecorded proprietors were to have the benefit of the Bill, there would be some reason for putting it on the ground of the fact of possession; but I can imagine none why this fact should be inquired into, in the case of persons already recorded as having a title. Moreover what shall constitute "possession" is not explained; there is no word in the whole vocabulary of law which admits of a greater variety of application. Possession may be constructive or direct and actual; by oneself, one's agent, or servant; or constituted by facts, which show an intention to possess and merely no adverse claim to the possession by any other person. It has been common, I am informed, for European proprietors to have shares of zemindaries recorded in the names of their managers or servants. Who, in that case, the manager or the proprietor, is in possession? If the latter, is he to lose the benefit of the Bill by reason of his not being recorded, though in possession? One tenant in common may alone receive the rents, and pay their shares to the other tenants in common; or, a manager appointed by one may be in possession, not for one, but for all. Who, in these cases, is in possession? A mortgagee of a share may be in the receipt of the rents, while the mortgagor is the recorded sharer: is the recorded sharer not to have the benefit of this Bill, or is the possession of the mortgagee to be construed as his possession? This is but a small sample of the cases of no uncommon kind in which the result of an application must be extremely doubtful, if the right of the recorded sharer is to depend on the question of possession.

The Bill also, as framed, appears to me to raise a very doubtful question, or rather leaves it very uncertain what is the question to be tried, in the case of a sharer of specific portions of land, where the objection is to the amount of jumma stated by him. The Bill requires the applicant to state "the amount of jumma heretofore paid by him;" and then it provides that—"If the objection be that the jumma alleged by the applicant is not the jumma which has been recognised as such by the other sharers," the Collector is to "make a summary inquiry into the fact." What fact? That the jumma paid is the real jumma, or the fact of payment as alleged by the applicant, or the fact of recognition? And if of recognition, recognition of what? Whether of the payment in fact by the applicant, or of the amount as correct? And what will establish recognition? Will the acquiescence of one sharer preclude the others from objecting? If one sharer says, "True, the applicant has never paid more than the amount he states, and I and my co-sharers have paid such and such other sums, making up the full amount; but we have done so only from necessity, he having paid too little." Is that plea to avail in proof of non-recognition? I offer these purely as practical difficulties, which will open a wide door to dispute and litigation, and will render the success of an application in a great many cases very doubtful.

The sections relating to the under-tenures are the 35th, 36th, 37th, and 38th.

The under-tenures are classed under four heads:—

1. Istemrabaree and mokuraree tenures, held at a fixed rent more than 12 years before the permanent settlement.

To these the new Bill appears to be a disadvantage. By the existing law they are absolutely protected (Act I. 1845, Section XXVI., Clause 1); but their future protection is to depend on, first, their being registered under this Bill; and, secondly, after registration the rents reserved on them being duly paid up at any time when the zemindary is liable to be put up for sale. If, as I am informed, the tenures of this kind were all ascertained and recorded at the time of the resumption proceedings, it is hard to impose on them the necessity of a new registration, which can be obtained only by means which will open a wide field for dispute and litigation, all the power and influence of the zemindar being arrayed against the applicant; and the tenure will be equally jeopardised, after registration, by the second condition, through the temptation which it will constantly hold out to deny the fact of payment.

2. Tenures existing at the time of settlement, against which the zemindar has failed, or may fail, to prove his right to enhance the rents.

To these also the new Bill appears to be a disadvantage. They are protected by the existing law; but their future security is to depend on registration under this Bill, and their rent being paid up at the time when the zemindary becomes liable to sale. I have already stated, and therefore need not repeat here, the objections to which these conditions are open.

3. Tenures of whatever description, and farms for terms of years which have been created since the time of settlement.

For these tenures this Bill first provides protection on two conditions; first, their being registered under this Bill; and, secondly, their rent being paid up at the time when the zemindary becomes liable to sale. The observations already made on this second condition, in connexion with the two first classes of tenures, are here applicable; and I may now add, that, dangerous as this condition is in itself, the danger is aggravated by the want of all provision in the Bill for judicially ascertaining the fact of default of payment, and for any notification of it before the sale. If these defects in the Bill are supplied, the under-tenure holder might reasonably claim not to be more harshly treated for his default than the zemindar is by the Government. The zemindar has a latest day, beyond the proper legal period, and therefore, in fact, an extension of time for payment before his zemindary can be notified for sale; so, by analogy, the under-tenure holder should have the power of curing his default, which, as in the zemindar's case, may sometimes be a default, not of his own, but of his servants.

There is also another qualification on the right of under-tenures of this third class to be admitted to registration. The Collector is, on receipt of the petition, to cause whatever measurement, survey, and local inquiry he may deem necessary for the security of the Government revenue. This provision is a cause of apprehension to members of great experience; they say a measurement, survey, and local inquiry can be carried on only by an army of native ameens and their assistants, in whose train follow the well-known and dreaded corruptions; and following up the prospect thus opened, they apprehend the effect, though less extensive, will be similar to that of the resumption proceedings in unsettling titles and disturbing enjoyment, and from the lamentable fruits of which, it is said, property in some parts of the country is only just recovering. It surely will be wise to take heed on this warning. The members from whom it proceeds are not insensible to the highly beneficial character of the essential objects of the Bill, and would not willingly renounce them, and it may be hoped those objects may be secured by means free from those objections. Persons entertaining such apprehensions will, of course, not apply for the proposed protection; but the consequences may nevertheless reach them. To meet in a degree these apprehensions, it has been suggested, that the Collector shall have an unfettered discretion to act in each case according to its particular circumstances, in directing or withholding the inquiry or survey and measurement.

It has been remarked that the Bill will protect only the original tenures:—"As regards new tenures, putnees will only be benefited by this new Bill. They can be registered and made secure, in the event of a sale of the parent estate for Government arrears. But durputnees, and all other lower tenures, cannot be registered, because the proprietor did not create those under-tenures. By the 7th rule of Section XXXVI., it is pretty plain that only

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those tenures granted by the zemindar or proprietor of the parent estate can be registered."—[Mr. *E. Roberts.*]

This is a defect, and an inconsequential one. If the rent reserved on the original under-tenure is a fair proportion of the sudder jumma, and is paid up—for both of which the Bill provides—the lower tenures carved out of the original under-tenure are of no importance to the revenue, and their safety shall be left dependent on that of the under-tenure, standing or falling with it; but, in respect of their own interests, the dur-tenure holders should have the opportunity of preventing a forfeiture of the parent tenure.

After this enumeration of under-tenures which are to be placed under protection, come, in Sections XXXVI. and XXXVII., the means by which the proposed protection is to be obtained. It is ultimately by registration of the under-tenure, and this is to be obtained by petition to the Collector, the particulars of which petition are minutely prescribed by the Bill. Notice of this petition is to be given to all parties concerned, and they are to have the opportunity of making objections; and then the case is to be heard on evidence. This procedure is regarded by different members with various degrees of apprehension, as a probable source of frauds, forgeries, and perjuries, the usual instrumentality of mofussil litigation.

In reference to the application to be made by sharers of zemindaries, I have alluded to the difficulty of complying with the required form. The difficulty will be still greater of following up the required petition. Mere minuteness of detail could hardly have been required in the petition if it had been devised to satisfy an English lawyer advising for an unwilling purchaser on a title. The petition is to comprise particulars classed under no fewer than nine heads: (1,) the pergunnah or pergunnahs in which the tenure [land] is situated—(2,) the denomination of the tenure—(3,) the name or names of the villages whereof the land is composed—(4,) the area and boundaries in complete detail—(5,) the amount of rent, cesses, and duties payable—(6,) the date of the deed constituting the tenure, or date when the tenure was created—(7,) the name of the proprietor who created it and name of—(8,) original, and (9,) present holder, and relation between those two, and manner in which the latter acquired it.

The first and third, and second and fifth, are perhaps unnecessarily separated. The first, second, and third standing, the fourth might be dispensed with. To establish the sixth, the deed or writing, I should suppose, must be produced and proved, which might alone be sufficient. The fourth requirement is regarded as in a great many cases impracticable, and the case is not provided for in which the deed is lost; probably not a rare occurrence in the case of the older tenures.

It is true the requirement is under one qualification, namely, these particulars are to be given "as far as they are ascertainable:" the rule therefore is open to exceptions; but what are the circumstances which may excuse compliance with the rule? It is true also that, if no objection is made, the Collector is only to make "due inquiry," and to be "satisfied." There is therefore, in *ex parte* cases, great latitude and a dispensing power in the Collector; but this also will give opportunity and scope for the well-known arts of the amlah. Moreover at any time within a year, "any party dissatisfied" with the award "may institute a civil suit to set it aside:"—which, whatever be the extent of the privilege—whether it is to be exercised only where the award has been made after a summary investigation, or exercised generally—detracts from the value of the registration.

In the annexed extracts from correspondence will be found several other remarks and suggestions on the Bill from members of great mofussil experience.

The question remains, can the important objects of the Bill be attained with checks and precautions and on a simple plan, consistently with the perfect security of the revenue which is provided (or intended to be) by this Bill? The latter part of this question raises another. If those parts of the plan of the Bill are abandoned, which are directed to the ascertainment whether fair* rents have been reserved on the under-tenures, what security can the Government have in their place for the safety of its revenue? The following plan has been suggested. That the under-tenures should be registered in the office of the Collector on proof simply of the deed or writing by which they are created, an abstract of which should constitute the record; and that all tenures so registered should be protected. The protection in the first instance would be that the zemindary would be put up for sale subject to the under-tenures. If the bid for the zemindary exceeds the arrears of revenue, no question arises to affect the under-tenures. If, on the other hand, the price offered falls short of the arrears of revenue, a few days should be given for any under-tenure holder to come in and pay the arrears, he being permitted to stand in the place of a mortgagee, or, at his option, a purchaser. There may be no under-tenure holder with means to avail himself of this privilege; in which case, by analogy to the Bill as it now stands, any under-tenure holder should have the opportunity of establishing the *bonâ fide* character of his rent and tenure. As an ultimate resource in the interest of the revenue, the zemindary might be liable to sale free, as now, from the under-tenures: but, in that case, the price realised being partly made up of the value of the under-tenures, should be regarded as clothed with a trust to compensate the under-tenure holders for their loss, and a liberal measure of damages should be legislatively established. The compensation should cover the price paid for the under-tenure and its improved value. If the surplus proceeds of the sale were retained until claims of this kind were satisfied, there would be an end of the common fraud of zemindars making default for the sake of the gain to be derived from a sacrifice of the under-tenures.

It has been suggested that there may be parts of the country where the plan proposed in the Bill could be extensively applied without the consequences apprehended by some members. And, in this view, that plan, with a few alterations, might be retained, and, some such plan as above suggested, be superadded to it. The Bill would thus become universally acceptable.

5, Bankshall-street, 10 June 1856. *W. Theobald*, Secretary.

EXTRACTS from CORRESPONDENCE in Office of Indigo Planters' Association.

Merits of the Bill.—"The gain to the landed proprietors in respect to this measure alone is immense, and in a district like Tirhoot, where possession in common tenancy is carried out to such an enormous extent, and where, consequently, security against bad faith is so seriously needed, this law will be held a great boon."—[Mr. *C. Strachan.*]

Difficulty attending the Procedure as to Share of Zemindaries.—"The labour imposed on the several authorities to carry through the requisite summary inquiries to enable them to open separate accounts, will be so considerably increased, that it is to be feared frivolous and vexatious objections will be too readily admitted and allowed weight, and many applications will be hastily rejected.

"It is therefore necessary that some definite rules in respect to the nature of the objections which are cognizable, be laid down.

"It seems also to me, as an advisable measure, that, in connexion with the collectorate, a separate establishment be erected solely for the purpose of carrying through applications for registration, for they will count by thousands, and under the considerations specified in Sections XXXVI. and XXXVII., the inquiries which will have to be made will be so extensive that serious delay will be unavoidable, where the work to be done is left to one burthened with other responsible duties."—[Mr. *C. Strachan.*]

Time allowed for Objections insufficient.—"The second point I would notice is the limited time allowed under Sections X., XI., and XXXVI., within which only objections can be entered and attended to. The reasons are so obvious, that it is needless to enter into any lengthy exposition to show why thirty days or six weeks (the utmost period allowed) are not sufficient for the purpose, and I would submit for the serious consideration of the Central Committee the necessity of suggesting an extension of time. It appears to me that a three months' notice is not too long, and that less than that would be positively injurious."—[Mr. *C. Strachan.*]

The Bill stops short of the Protection desired by some Members.—"What is prayed for is absolute protection to the under-tenants, co-sharers of estates, who, at the time of sale, have fairly paid the full of their registered amounts. A co-shareholder or under-tenant may not have the means of purchasing the whole estate by paying up the entire revenue; his joint shareholder knowing such, and wishing to obtain the whole estate, may fail to pay his share, and subsequently obtain his ends by purchasing the whole estate benamee."—[Mr. *Terry.*]

"Those new provisions of the proposed law, which go to enable co-partners in an estate to obtain a separate liability for their quota of Government revenue, and mortgagees to bar extinction of their lien by default, and to permit the deposit of Company's paper as security for the due payment, under all circumstances, of the revenue, are unexceptionable, and not likely to meet with other opposition than that of needy copartners who desire to continue a system of joint liability, and of covetous co-partners who, under the present law, can, by a fraudulent default and purchase, oust the other shareholders of the estate."

First Registration of Istemraharee and Mocurraree Tenures unnecessary.—"The changes noted in your letter, I can see no objection to allow them to stand as they are; such tenures are all safe as the law now stands, for they have for the most part been duly ascertained when the resumption law was put in force, for pottahs and documents had to be produced, and investigations were taken before duly competent authorities on their genuineness, so that the registration has in a great measure been carried out."—[Mr. *D. Andrew.*]

Impossible for the Istemrahreedars to comply with the Conditions.—"I do not see that it is possible for the ryots who are holders of Istemrahree or Mocurraree tenures to obtain registration, as one of the conditions provided by the new Act is that the area of the land comprised in the tenure, with its boundaries in complete detail, must be furnished on making application to the Collector. This is an injunction which many will have difficulty in complying with, and though in theory it may appear simple, it is practically next to impossible. Under the old sale law, these tenures were good, and I do not see any necessity for rendering registration compulsory under the new Act. The Government survey at present going on does not define the boundaries and give the area of every jumma in a village, only the boundaries of the village itself, and the area of the resumption muhal and lakhiraj lands that it may contain."—[Mr. *A. Stuart.*]

"In putnee talooks the boon conferred by Mr. Grant's Bill is so great, that holders of this description of tenures should gladly welcome the day when they shall see their property placed on a sound and safe footing, and removed from the risk of being injured at the caprice or negligence of a zemindar; but there is one clause of the Bill which, if

Appendix No. 7.

allowed to pass, completely annihilates the benefits contemplated. I mean, &c." "The writer then refers to the condition that no arrear of rent is to be due on the last day of payment of the Government revenue."—[Mr. *A. Stuart.*]

Difficulties of obtaining Registration.—" Section XXXVI. This section throws all the difficulties of registration on the under-tenant, who is seldom rich enough to cope with the zemindar; and in the present state of the mofussil courts, it must fail, unless much simplified."—[Mr. *Terry.*]

" Section XXXVII. leaves registration at the mercy of any Collector, even when no other opposition is offered, unless he considers the rent paid by the holder to be a fair proportion of the assessed revenue. What is a fair proportion? Collectors may differ much upon that point. Moreover, collectors never trouble themselves to investigate personally mofussil claims, but such investigations are usually left to badly paid ameens, or some of the Collector's most favoured amlahs, who always notoriously decide in favour of the highest payer."—[Mr. *Terry.*]

Opinion of an Opponent of the Bill.—" Fortunately for zemindars, however, the dividing of such tenures from the parent estates will not, on trial, be found so easy as the promoters of the measure have supposed. Mr. J. P. Grant has not prepared himself by a study of the quinquennial register, so as to understand the nature of the rent rolls of an estate; it will soon be found to cause immense trouble and expense to all parties concerned; will ruin many, and will create no end of confusion to the Government revenue.

" It is not possible for any one, without the experience of many years, to conceive the state of confusion into which the boundaries of the different portions of an estate have worked themselves up together. To divide such portions, then, the one from the other, so as to safely render them independent of each other and of the parent estate, and at the same time secure the Government revenue, would require a very careful and expensive survey of the whole estate, a process in a large estate requiring many years. A Collector's establishment will never be able to make any needful inquiry so as to produce a result at all worthy of trust. To leave the division of estates in their hands without a regular organised survey will be worse than nonsense. Who is to pay for that survey? Surely not the zemindar, whose very throat, so to speak, it will have to cut; and no putneedar, istemrahreedar, or mocurrareedar, will even be able to pay it. As for native ameens, of the nature alluded to by Mr. J. P. Grant in his speech on the proposed law, it will be far better to decide all disputed points by the throws of dice, or by tossing up a rupee, or any other rule of chance, by which we may be assured far less injustice will be perpetrated. It is absolutely necessary an estate should be surveyed before it is divided. In this point alone I think I may safely defy the collective wisdom of the Legislative Council. Those who do not know what the division of an estate is will then find out, to their cost; and even putneedars, istemrahreedars, &c., will not find all smooth, as they at present think. Let them, however, do as they like. If this law is at all carried out, the Government revenue will get into such confusion that nothing will put it straight again. A result will be sure to be arrived at as much opposed to the expectations of the promoters of the law as was that to the far-famed resumptions."—[Mr. *Cave.*]

One Member, referring to minor Difficulties, says—" I think nothing can be better than Mr. Grant's amendments, but difficulties may arise in the matter of registration, for a deed cannot be registered under two rupees, and one rupee to the kerani, who throws a thousand obstacles in its performance if he is refused his fee, which is illegally demanded; and this is one of the curses of the country, that every amlah of each office must have his perquisite, unless you attend yourself, which cannot be effected; considering the distance one is located from the station."—[Mr. *R. Savi.*]

One Member suggests as auxiliary to the registration of putnee tenures, that the tenure, or the names of the putneedars, should be marked on the new revenue map, now under preparation.—[Mr. *R. Savi.*]

" I would also pray, now that the Thakbust Ameens have nearly completed their work, and the specification of lands, boundaries, and extent, is defined, that each putneedar's name be inserted with the village or pergunnah he may hold, in the map about being drawn out by the Company's surveyor; and this plan would materially assist the Collector in opening separate accounts under Section XI., in accordance with the Bill."—[Mr. *R. Savi.*]

Enhanced Rents generally reserved on Putnees.—" I would beg to draw attention to the fact that zemindars, in leasing putnee and such tenures, do it on considerably enhanced rents from those paid by them to the Government, leaving out the poonbar or purchase-money for the same; and the realization of the Government revenue would be insured for a certainty and without any trouble, if a clause in the new Act was inserted for a putneedar to have the option of paying directly into the Collector's treasury his monthly instalments of rents on his zemindar's account, and a receipt granted by the Collector for the same. As the law at present is, the Collector is prohibited from receiving putnee rents. Most zemindaries yield at least 76 per cent. in excess of Government revenue; the Collector could, therefore, easily carry the amount due for Government revenue to credit, and hand the balance to the zemindar to do what he thought fit. This would insure not only the Government due, but preclude the possibility of any collusion of the zemindar in withholding the revenue paid to him, and bringing the talook for sale for arrears and purchasing it benamee, thus defrauding the putneedar not only of his tenure, but the large amount of poonbar paid. Transactions of this kind have been done, and to the ruin of parties, who have only remedy by a civil suit, and may, after seven years of trouble and expense, find, even if successful, that no property can be attached, all being previously made benamee." —[Mr. *D. Andrew.*]

Tenures already registered should be admitted to Protection without fresh Registration.—"Putnee talooks that have been made on good faith, have been already registered as by law directed. We should therefore have a clause in the new Act upholding those registered putnees, otherwise confusion and heavy extra expenses must be again incurred for fresh stamps and all other charges, which I do not suppose was contemplated when the proposed Act was framed."—[Mr. *D. Andrew.*]

Difficulty of obtaining Registration.—"Section XXXV. It would be very difficult for ryots or holders to prove what is required in the 1st and 2d Clauses. Clause 3 gives a substantial and just protection. Clause 4 is altogether unjust, and would cause no end of litigation, which the object of the Bill is, I imagine, to prevent. For instance, lands for building on may be given at a low rent, and for considerations beyond the mere rent too numerous to be enumerated. And what is to be considered the rent of good arable land, where it ranges from 2 annas per beegah to 12 rupees?"—[Mr. *Terry.*]

"Section XXXVII. leaves registration at the mercy of every Collector, even when no other opposition is offered, unless he considered the rent paid by the holder to be a fair proportion of the assessed revenue. What is to be considered a fair proportion? Collectors may differ much upon that point. Then who is to decide? Moreover Collectors rarely trouble themselves to investigate personally mofussil claims; but such investigations are usually left to badly-paid ameens, or some of the Collector's most favoured amlahs, who notoriously decide in favour of the highest payer."—[Mr. *Terry.*]

(True extracts.)

10 June 1856. *W. Theobald*, Secretary.

(No. 3.)

PETITION of Rajah *Sutt Shurn Ghosaul*, dated 19th September 1856.

To the Honourable Members of the Legislative Council of *India*.

The humble Petition of Sutt Shurn Ghosaul, of Bhookoyloss, Zillah 24 Pergunnahs, a Zemindar in the Presidency of Bengal,

Most respectfully sheweth,

THAT your petitioner, as a zemindar, takes the liberty to submit a few observations and suggestions on the Draft Act, intituled, "A Bill to improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency," for the consideration of the Honourable Council.

2. That your petitioner most cordially admits the equity and justice of the security which the Bill is intended to afford to persons whose interests are affected by the sale of an estate for arrears of public revenue; but most respectfully begs to object to the protection held out by the Bill to the holders of under-tenures created since the time of settlement, on the following grounds.

First. That, according to the sound and wholesome principles laid down in Regulation I. of 1793, and upheld by subsequent Regulations and Acts, the purchaser of a permanently settled estate sold for its own arrears, succeeds to the rights and privileges enjoyed and exercised by the original engager at the time of settlement. He therefore acquires the estate free from any subsequent incumbrances imposed upon it by the defaulter or his predecessors, being representatives or assignees of the proprietor, with whom settlement was concluded. But although the main part of Section XXXV. of the Bill prescribes similar provisions based upon the same invariable principles, yet its third exceptional clause exempts "tenures of all sorts and farms for terms of years," which may have originated since settlement, from being null and void, if they are duly registered under Section XXXVII., and if there was no arrear due on them on the latest day of payment. This exception is therefore contrary to the long-established principle inculcated and upheld by various Regulations and Acts passed by the Supreme Government.

Secondly. That if these tenures are protected from the effects of sale, it will be a source of manifold fraudulent and collusive transactions. A proprietor having disposed of his estate in ostensible or real under-tenures, registered under Section XXXVII., at an aggregate jummah equal to annual Government revenue, will intentionally suffer the estate to fall in arrear. In one case he defrauds the Government of its due instalment of revenue, reserving to himself in the names of other persons all the rights and privileges he enjoyed before his default, and at the same time he fills his exchequer with a large sum which he receives in the nature of fine or premium, together with the instalment of revenue in arrear. Thus an opportunity is given to the present proprietors to make an immense fortune by creating fixed assessments of under-tenures in their estates, which the Bill pronounces unalterable by any future proprietor.

Thirdly. That such restricted sales will tend much to endanger the realisation of public revenue. When an estate is sold subject to these incumbrances, purchasers will not be forthcoming to compete as bidders at the public sales. They will have very little or no inducement to embark their capital in a speculation which, far from affording them any profits above the revenue due to Government will render them liable to collection charges from their private purses to collect that revenue. Men will scarcely direct their ambition towards the acquirement of zemindarees, and Government will be obliged to hold khas all such estates; and the zemindaree system will, in the course of a few years, be gradually demolished; and there is no doubt that that system is the best security for the punctual realisation of the public revenue. But under Section XLVII. of the Bill, Government also purchases the estates, subject to the provisions of the Bill under review. It cannot, without infringing the terms of the perpetual settlement, annul the registered under-tenures with which the sold estates will be burthened. Consequently even a tenure yielding one anna per annum will be brought under the immediate management of Government, and the entire parent estate will yield to it nothing beyond the fixed revenue which the Government now obtains through the zemindars, without collection charges. Your petitioner begs to propose therefore that the tenures in question be declared voidable by the sale purchasers. The Bill, then, with its other essential improvements contained in it, will be a great boon to the country.

3. Your petitioner, on a careful survey of the existing sale law and the new Bill, takes leave to remark, that there is no provision made to enable purchasers to take peaceful possession of estates sold in revenue sales. A notification and a certificate under Section XXVII. of the Bill, are not sufficient when a purchaser meets with opposition either from the defaulters or the talookdars whose talooks are not affected by the sale. Under such circumstances, finding it inconvenient to appeal to the dilatory chances of a regular suit, they are compelled to involve themselves in affrays, in order to acquire possession of what they have fairly bought. If Section XXVIII. of the old sale law, Regulation XI. of 1822, which enjoins the appointment of a Commissioner to give possession, be restored, with some alterations suited to the times, litigation under Act IV. of 1840, and breaches of the peace will be greatly diminished. Should the Honourable Council direct its attention to this proposal, your petitioner may be permitted to state that, in his opinion, the country will be greatly benefited.

4. That there is another point which your petitioner does not deem proper to pass unnoticed here. The Bill is silent regarding the rights of a purchaser of a share of an estate sold under Section XIII. If such purchasers are entitled to the rights described in Sections XXXV. and XLII., your petitioner begs to suggest the insertion of the words "of an estate or share of an estate" between the words "purchasers" and "sold," in Section XXXV., in the place of "of an entire estate," and the same words in Section XLII., in the place of "of an estate," to avoid misconstruction of the law on this point.

5. Your petitioner in conclusion trusts that he has not fallen into any error in understanding the provisions of the intended law.

And your petitioner, as in duty bound, shall ever pray.

Sutt Shurn Ghosaul.

Bhookoylass, 19 September 1856.

(No. 4.)

From the Secretary to the Government of Bengal, to the Clerk of the Legislative Council, No. 671, dated Fort William, 19 September 1856.

Revenue.

Sir,

In continuation of the junior secretary's letter,* No. 367, dated the 15th ultimo, I am directed to forward herewith a copy of a Minute, dated the 2d instant, by the Lieutenant-governor, on the subject of the Bill "to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency," together with copies of the papers, as per accompanying list.

I have, &c.
(signed) *W. Grey,*
Secretary to the Government of Bengal.

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* From the Junior Secretary to the Government of Bengal, to the Clerk of the Legislative Council, dated Chuppra, 15 August 1856.

Sir,

I am directed by the Lieutenant-governor of Bengal to express his regret that he has been prevented, hitherto, by the many details pressing upon him during his tour, from submitting to the Select Committee of the Legislative Council his sentiments on the Sale Law Amendment Bill now under consideration.

The Lieutenant-governor is most desirous of submitting his opinion on the important measure in question, together with those of the revenue officers subject to the Bengal Government, which are now before him; and the object of this letter is to apologize for and explain the delay that has unavoidably occurred, and to assure the committee that the opinions of the Lieutenant-governor on the Bill, with those of his subordinates, will now be forwarded at the earliest possible date.

I have, &c.
(signed) *C. T. Buckland,*
Junior Secretary to the Government of Bengal.

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MINUTE by the Lieutenant-Governor of *Bengal.*

Sale Law Improvement Bill. Letters from Board of Revenue, with Minutes and other Enclosures.

THE papers transmitted by the Board on the subject of the Sale Law Improvement Bill, including the minutes of the members, and the abstracts of Mofussil opinions, as well as the original letters, containing the opinions of the officers specially noticed by the Board, will now be transmitted to the clerk of the Legislative Council.

2. I have read these papers and the printed papers sent down from the Legislative Council with the care and attention called for by the great importance of the subject of which they treat.

3. In sending up the opinions of the revenue officers under this Government, I will add a few words in explanation of my own sentiments, and I will do this as briefly as possible, for the papers are already very voluminous.

4. I would, in the first place, request particular attention to the remarks of the Board on section III. of the Bill, as to the effect of cutting off, in such districts as Sylhet, all modes of collecting the revenue, except by sale under this Act. At present the revenue in Zillah Sylhet is collected primarily and mainly under the provisions of Section IV., Regulation I., 1801, and there are upwards of 70,000 recorded estates on the collector's roll, all minutely subdivided. It has been doubtful, ever since the passing of the present Sale Law (Act I. of 1845), whether this mode of collection be legal or not. But there can, I submit, be no doubt that it ought to be made legal if it be not so.

5. The Board propose that the section above quoted should be now distinctly re-enacted, with this alteration however, that express sanction of the Board shall not be necessary in every instance, but that the Board be empowered "to invest such collectors as they consider proper, with the power of distraining the personal property of revenue defaulters before bringing the estates in balance to sale." I entirely agree with the Board, and desire to submit their recommendation for the favourable consideration of the Legislative Council.

6. The first important alteration of the present law which occurs in the new Bill is to be found in Sections X., XI., XII., XIII., and XIV. By the operation of these sections a very great boon will be conferred on shareholders of zemindarees, with every one of whom the collector will be empowered, after certain inquiries, to open separate accounts; bringing to sale, for the realisation of arrears, only those shares which may be actually in balance, and, if those shares prove unsaleable, giving to the co-sharers an option in the first instance of purchasing them by paying the whole arrear due from them before actually proceeding to sell the whole estate for the arrear; which power is necessarily reserved in the last resort for the security of the Government revenue.

7. This amendment upon the existing law was originally proposed by the most noble the late Governor of Bengal. But it was a part of his Lordship's plan that the benefit should not be extended to any share, the revenue of which might not exceed 50 rupees. To this it was objected in the Legislative Council that the object is to confirm the just rights of the sharer by securing his property when there is no default on his part; and that a share paying 40 rupees may be of as much concern to the owner as are estates paying 40 lacs to the Raja of Burdwan.

8. I would say, with deference, that I doubt if this objection be sound. The object of the law seems to me not "to secure the just rights of the sharer" absolutely, and without reference to the security of Government. For if that were so, it would be unjust in any case to sell out the sharer who had paid his quota. Yet this the proposed law does not scruple to do, even though the sharer may have paid up his full share of the revenue, whenever the Government revenue on the whole estate, that is on other shares of the estate, cannot otherwise be realised. I apprehend that the sharer in a joint undivided estate charged with the payment of a certain fixed revenue to Government, cannot properly be said to have any rights except what the law has given him; and among those rights, ever since the permanent settlement, has never been a right to have a separate account as to his share, or to have his interests in any way distinguished from the interests of all other sharers in the estate. What the Government is now disposed to allow (clearly not as a right, but as a boon) is avowedly to be limited by all such conditions as may seem necessary for the security of the Government, and if it be for the security of the Government interests to limit this boon to shares of a certain value, it is surely allowable to do so, nor does it appear to me any reason to the contrary to say that a sharer has in justice a right to be secured from the sale of his property on payment of his quota, because, as I view it, he has in reality no such right and never had it; nor is it proposed, even by those who use this argument, to give him any such absolute protection.

9. I would submit therefore that it is quite open to consideration, and may be proposed for consideration without any breach of justice and right, whether or no it be for the interests of Government to grant the boon generally and universally, or whether on the contrary, it be not advisable to limit it to shares of a certain value as proposed by Lord Dalhousie. And I must say for my own part that I look on Lord Dalhousie's proposition, more or less modified, as in the highest degree expedient on this occasion.

10. There are a great many districts under the Government of Bengal, including all the districts of the Behar province, in which the subdivision of shares is carried to a great extent. I walked into a small village a few days ago in the Patna district, which I was told on the spot was divided among, or held jointly by 70 sharers; and at Chuppra I was visited by certain zemindars of old family, whose zemindaree, never large, is now held in 75 shares, of which each separate share is owned by three or four different persons. These were spoken of as quite ordinary cases; and it seems obvious that the number of the sharers will go on increasing under the Hindoo law up to the limit of starvation, especially if encouraged and fostered by unlimited separate accounts at the collectorate. The question cannot but occur to me; is it wise and politic to encourage this? Or even if it were wise and politic, how are any conceivable establishments to keep such an enormous mass of small separate accounts? In Sylhet there are already 70,000 different estates; and, as a specimen of the extent of subdivision, Mr. Glover, the collector, tells us of one estate which has already 150 recorded sharers and 800 unrecorded, who, if they think it worth while to pay the fees, may all get themselves recorded as soon as this Bill passes.

11. Now I am driven to believe that, before rushing at once into such a system of account as this Bill will bring upon us, it would be safer at all events to begin with some reasonable limit. If 50 rupees, as proposed by Lord Dalhousie, be considered too high (I confess I do not think it so), let a lower standard be taken. But in any case let the Act be tried first, as it were, on manageable terms; if it works easily, it can afterwards be at any time extended gradually as may seem fit. As at present drawn, it appears to me that the proposed law will, in the words of several of the revenue officers consulted, "swamp the collectors' offices."

12. It is certain that the present law discourages subdivision to a certain extent, and has assuredly a tendency to break up over-divided estates. I suppose that the Legislative Council are not likely to differ from me in the opinion that it is undesirable to extend a pauper proprietary, and will be willing, like myself, to avoid everything that may have a tendency unduly to encourage the "rabbit warren" system of land ownership.

13. Whether the plan of a limit be adopted or not, I would submit that it will be advisable to omit from Section XII. the direction to the collector to "institute summary inquiry into the fact of possession."

14. On this subject I desire to adopt the following observations by Mr. Theobald, which seem to me very worthy of notice. I would add that, under the system now enforced by the Board, no proprietor's name is now recorded by the collector until he has satisfied himself as to the fact of his possession.

"And upon these objections, when made, the collector is to institute a summary inquiry into the fact of possession.

"It has been remarked that recorded sharers have already established their title, and that they ought not to be put to the risk of a second inquiry, which will in many cases operate as an invitation and inducement to dispute and litigation on a title which never was questioned before; and following up these views it has been suggested that the applicant who proves by a reference to the collector's books that he is a recorded sharer, should *ipso facto* be entitled to have the separate account of his share opened.

"It is to be hoped that this suggestion will be adopted; but, if not, it is important to note what is the inquiry which the collector is to make as the Bill now stands. The inquiry is to be into the fact of possession. Such an inquiry would be a departure from the application.

The application refers to grounds of title; possession may or may not go with the title; the question, therefore, of the fact of title or truth of the application may be wholly different from the question of possession. If, indeed, unrecorded proprietors were to have the benefit of the Bill, there would be some reason for putting it on the ground of the fact of possession; but I can imagine none why this fact should be inquired into in the case of persons already recorded as having a title. Moreover, what shall constitute 'possession,' is not explained; there is no word in the whole vocabulary of the law which admits of a greater variety of application. Possession may be constructive, or direct and actual; by one's self, one's agent or servant, or constituted by facts which show an intention to possess, and merely no adverse claim to the possession by any other person. It has been common, I am informed, for European proprietors to have shares of zemindarees recorded in the names of their managers or servants. Who, in that case, the manager or the proprietor, is in possession? If the latter, is he to lose the benefit of the Bill by reason of his not being recorded, though in possession? One tenant in common may alone receive the rents and pay their shares to other tenants in common, or a manager appointed by one may be in possession, not for one, but for all. Who, in these cases, is in possession? A mortgagee of a share may be in the receipt of the rents, while the mortgagor is the recorded sharer. Is the recorded sharer not to have the benefit of this Bill, or is the possession of the mortgagee to be construed as his possession? This is but a small sample of the cases of no uncommon kind in which the result of an application must be extremely doubtful, if the right of the recorded sharer is to depend on the question of possession."

15. The next important alteration proposed by this Bill is that contained in section XV., which allows a zemindar to deposit money or Government securities with the collector, so that the amount of the interest in the securities may be used in liquidation of balances as they arise. I look upon this measure as one which may prove of considerable value and usefulness to absentee zemindars unable to find trustworthy agents, a very general condition of absentee zemindars in this country. I am uncertain, however, whether it be a real affair of the Government to transact agency of this kind for absentees. The provision may (like the institution of the Government agency now about to be abolished) have a tendency to raise the value of Government securities; but I doubt after all if it will be made much use of. If it should be largely made use of, it would seem as reasonable in this case as in the case of the Government agency, to empower the collector to charge an agency commission for drawing and applying interest on securities, the private property of individuals. On the whole, and speaking with much deference, I am not greatly in favour of this provision. The Government can now permit a zemindar to deposit cash or paper when it may think fit in peculiar cases, and did so in the case of the late Dwarkanath Tagore. I doubt if it be expedient to force the Government to do so in all cases.

16. I come now to the provisions regarding under-tenures, which are in every respect the most important parts of the Bill, and those demanding the most careful consideration. And first, of "ante-permanent settlement tenures," the subjects of the first and second clauses of Section XXXV. of the Bill.

17. As I view the case of these ante-settlement tenures, I am unable to divest myself of the opinion that the proposed change of the law will affect them very disadvantageously. I need hardly say that the present Sale Law (Act I. of 1845) gave to the holders of these tenures no new rights, when that Act declared that an auction purchaser of a zemindaree had no power to avoid or annul.

First, "Istemarree or Mokurruree tenures which were held at a fixed rent more than 12 years before the permanent settlement," and

Secondly, "Tenures existing at the time of settlement which have not been and may not be proved liable to increase of assessment on the grounds stated in Section LI., Regulation VIII., of 1793."

It declared only what had been the law ever since 1793. The rights of tenants of the two classes above-named were given at the same time with the rights conferred upon zemindars, and are coeval with the permanent settlement. They cannot, surely, be now infringed without injustice; and I would submit, that it cannot but be a very serious infringement of those rights to enact at this time of day, 60 years and more after the date of the law which constitutes their charter, that the status then given to them and declared to be as permanent as the permanent settlement, shall nevertheless now cease and determine altogether, unless the possessors of those rights shall, within three years, come in and register them before the collector, exposing themselves by that very process to an inevitable sequence of litigation, with all its difficulties and uncertainties such as they were most unlikely ever to have been in danger of under the existing law, except in the rare event of a sale of the zemindarees to which they belong.

18. If it were proposed to enact that, unless the zemindars of the permanent settlement should now come forward and register before the collector a number of particulars regarding their zemindarees, certain to provoke and produce a long chain of expensive and uncertain litigation not otherwise likely to arise; and that, failing such registration within three years, their estates should be deprived of the benefits of the permanent settlement, there would undoubtedly be an outcry against the proposition. Yet, unless I am under some great error in my view of the question, such a proposition would differ in principle very little, if at all, from that of the present Bill, as regards ante-settlement tenures. The rights annexed to these tenures are as old as those annexed to the zemindarees, and they were granted by the

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the same authority, in the same manner, and under the same sanctions. If then it would be unjust now to make registration a condition of the continuance of the permanent settlement as regards zemindarees, and of this no one can doubt, it must surely be equally unjust to make registration a condition of the continuance of the permanent rights guaranteed to the ante-settlement tenures by the law of the permanent settlement.

19. The law of 1793, after declaring the power of cancelling and annulling under-tenures to be exercised by an auction purchaser of a zemindaree, says expressly, " Nothing contained in this Regulation shall be construed to authorise the assessment of any increase upon the lands of such dependent talookdars as were exempted from any increase of assessment at the forming of the decennial (permanent settlement, in virtue of the prohibition entered in Clause First, Section LI. Regulation VIII. 1793. The revenue payable by such dependent talookdars is declared fixed for ever."* How can any novel rule be now made a condition of this legally declared permanency? Yet this appears to me to be what is intended by the present Bill.

20. Nor is this all, for the present Bill proposes to annex to these tenures a new penalty for arrears of rent, such as they were never liable to before, and such as, to my apprehension, they seem to have been guaranteed against by former laws. According to former laws an ante-settlement tenure might be sold for an arrear of rent,† but it was sold with all its privileges intact; and while the purchaser succeeded to all the rights of the defaulter, the latter received (less the amount in arrear) the full benefit of the purchase-money.

21. But, under the law as now proposed, if an arrear, however small, should happen to be due, or can be made to appear as due, on the latest day fixed for the zemindar's payment to Government, every right and privilege attaching to the tenure is to be at once swept away, the tenure is to be no longer excepted from the operation of the ordinary power of an auction purchaser, and it may be avoided and annulled, and its holder ejected at the will of the new zemindar, just as if the holder were a tenant at will of yesterday, and as if the laws of 1793 and 1799 had never been enacted for his benefit.

22. It was said in favour of the registration provision, during one of the debates on the Bill, that to enable a tenant to register must be advantageous to him, " for every holder of an under-tenure was liable to answer to the regular suit of every successive purchaser of the parent estate, because every successive purchaser of the parent estate enters with all the rights of the person with whom the settlement was originally made, and by the force of those rights can put the holder of the oldest under-tenures to the proof."

23. To this I would desire to submit, by way of answer in the first place, that to enable a tenant to register is one thing, and to force him to register on pain of losing his rights on the occurrence of a zemindaree sale, is another. The latter is what the present Bill appears to do, and not merely the former.

24. In the second place, I would desire to observe, that successive actions against a tenant who has once succeeded in proving his title on a first action, seem very unlikely to take place; and, if they do take place, can harm only the plaintiff, and not the tenant with a decree in his pocket to produce against all comers.

25. Further, I would bring to notice that revenue sales are extremely rare, and therefore actions by auction purchasers to oust ante-settlement tenants rarer still. An ante-settlement tenant knows this and is content. But he knows, too, that not every one who has a right is able to prove it when brought into Court for that purpose. If such a misfortune as a sale of the zemindaree should occur, and be followed by an action to try his title, the ante-settlement tenant will do his best to defend himself, and will take his chance of success. But he will surely thank nobody for a law which (like this Bill) will drive him into court, sale or no sale, occasion or no occasion, will put him to a proof which, as the law now stands, he might perhaps never have been called on to produce; and which, whatever the ultimate result to the tenant, will create a litigation, and all the expense and harassment of a litigation, such as, but for the new law, might probably never have come to pass at all.

26. Lastly, I would remark that this Bill will, very probably, cause an innumerable quantity of false claims to establish a title under this class of tenure, to be supported by the usual amount of perjury and forgery, to the great detriment of the zemindar during the pendency of the claim, and occupying much of the time of the officers of Government in fruitless labour.

27. It is very probable that I may have mistaken the effect and meaning of the proposed alteration of the law, and that my objections may be therefore imaginary. But if I should be correct in my interpretation, I cannot but be excused for desiring that the provisions above noticed may receive further consideration before they are finally passed into law.

28. This much as to ante-settlement tenures. I will now speak of tenures created subsequent to the settlement, the provisions regarding which, in the third Clause of Section XXXV., and certain following sections, are perhaps the most remarkable in the whole Bill.

29. The object of the Bill has not been to save from the interference of auction purchasers all post-settlement under-tenures, but only such as are held liable to the payment of rents, sufficient to afford a fair proportion of the revenue assessed on the parent estate. Accord-

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*Regulation XLIV., 1793, Sections VI. and VII.

†Clause 7, Section XV., Regulation VII., 1799.

ingly it provides that tenures of any description, farms, talooks, putnees, howalahs, theekas, ijarehs, jotes, or by whatever other denomination in use in different districts, may all, after certain inquiries to be made by the collector as to the proportion of their rents to the zemindaree jumma, be registered; and, when registered, shall be for ever safe from the effects of a zemindaree sale.

30. It is, no doubt, a great and serious grievance that no man in these provinces can hold or take a tenancy of land under a zemindar without risk of its being annulled by the sale of the zemindaree itself. This risk is certainly much less than it used to be before the passing of Act I. of 1845, but it still exists; and while this is the case, there must be considerable standing difficulty in the way of agricultural improvement. Although, therefore, in the case of tenures now existing the risk was probably more or less considered when the bargain was made by the tenant, and therefore there may be some room for doubt as to the abstract justice of conferring, at the expense of the zemindar, what is in effect a large pecuniary value on these tenures, beyond what was ever contracted or paid for by the tenant, yet, in consideration of the general evil involved in the present insecurity of under-tenures, there seems to be at the present time a general consent of opinion that, in some way or other, the condition of post-settlement under-tenants ought, for the sake of the public weal, to be made more stable and secure; and to do this as far as possible is the purpose of all who are interested in the present Bill.

31. I have, however, after much anxious consideration, arrived at the conviction that the method of attaining the object in view proposed by this Bill is open to very serious and, I incline to think, insuperable objections; and this I find to be the general opinion of the most intelligent and experienced officers who have been consulted.

32. It is well known that, in most parts of Bengal and Behar, whole districts are held in one form or another of under-tenure, the vast majority being post-settlement tenures. Within three years, if this Bill passes, applications will be made to register all these, and a great many more besides, that is to say, fictitious tenures, claims to which are certain to be made up for the occasion. As I read the Bill too, there is nothing to prevent any fixed-tenancy ryots, holding directly under the zemindar, from applying for registration; and, if so, the number of applications may be swelled by thousands. Almost every revenue officer who has considered the subject has assumed as incontrovertible, that in a great majority of instances, for any one tenant that may apply, the whole zemindaree to which it belongs must be measured, and its assets ascertained and compared, before the conditions of Section XXXVII. can be complied with. It has been endeavoured to prove to me, by a very able and experienced native friend, favourable to the present Bill, that this will not be necessary except in a small proportion of cases, which he was disposed to assume arbitrarily at 5 per cent. of the whole number of applications. I have not been able to agree in this opinion. But even supposing we are to undertake the operation of measuring and ascertaining the assets of as many zemindarees as may be concerned in 5 per cent. of the very numerous applications which will pour in, what a gigantic task to throw ourselves upon, utterly unprepared, as we are, for any such scale of operation!

33. Or let it even be supposed, which is the most favourable but surely most improbable supposition, that not one single zemindaree will have to be measured and valued in consequence of these applications: is it not quite certain that, at the least, a very large proportion of all the under-tenures for which application may be made will have to be measured and valued; and must not even this be, to any officer who knows practically what such operations involve, and what sort of instruments he has to employ upon them, a thing to be contemplated with the most serious apprehension?

34. Accordingly, we find the revenue officers for the most part speaking of the proposition as one of extreme difficulty and hazard. Mr. Ricketts, member of the Board, says "the ascertainment of the sufficiency to afford a fair proportion would be in many cases next to impracticable;" and again, "in large estates such an inquiry would be interminable." Mr. Dunbar, member of the Board, writes of Section XXXVII.: "It seems to me impracticable to carry out its provisions as they stand in the Bill. No collector could, by means of a summary investigation, satisfy himself that a new tenure has been created in good faith so far as the interests of Government are concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed on the parent estate. Nothing short of a detailed process similar to that employed in cases of Butwarrah, could give the collector the necessary assurance." Lastly, Mr. Dampier, member of the Board, says of Sections XXXVI. and XXXVII.: "These are the most important parts of the law, and I very much doubt if any summary inquiry could enable a collector to carry through the objects proposed by them." And further on, after approving of Mr. Ricketts' proposition that the registration of under-tenures should not ordinarily protect against the Government, he adds, "if otherwise, the inquiries would be impracticable and interminable."

35. These are the opinions of the members of the Board. Of the Commissioners, Messrs. Davidson, Steer, Young, Samuells, Grote, and Stainforth (now a member of the Board) are all against this part of the Bill; some of them expressing themselves in strong terms against it, while most of the collectors quoted by the Board object to this part of the Bill; besides several very capable and experienced deputy collectors, who look on the proposed provisions as in the highest degree difficult, if not, as one of them expresses it, "nearly impracticable."

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36. For myself, if the Bill should pass in its present shape, and if, as may surely be anticipated, a large number of under-tenants and self-styled under-tenants come forward for registration, I am unable to imagine how the plan will be carried into effect, except after a prodigious delay, and then, after all, with infinite hazard to the Government revenue.

37. For it is a part and, I apprehend, an inevitable part of the scheme, that "under-tenures, for the registration of which application shall be made within the prescribed time, shall, in case of the sale of the parent estate for arrears of revenue be protected pending the summary investigation of the collector" (Section XXXVIII.). But, where the applications are numerous, there is no saying how this may interfere with the collection of the Government revenue, or what confusion it may bring about. Even those revenue officers who do not think the plan impracticable, are mostly of opinion that it will take years to effect the necessary inquiries which are to be made by the collector. During all these years whole zemindarees, made up chiefly or entirely of "protected" under-tenures, many of them, of course, unreal and got up for the occasion to worry the zemindar, will be unsaleable for arrears, or, if sold, must be sold at far less than their real prices; for who would give the full price or who could tell the real value of a zemindaree, every foot of which was under a protracted investigation as to its under-tenures, including all the claims and counter claims, and boundary disputes and suits, and appeals and special appeals and frauds, and chicaneries of every description, inevitably consequent upon such an investigation, the cost of which must be incalculable, and the result far beyond the guessing powers of the acutest of human kind?

38. And let it be considered also what a prodigious and utterly unmanageable amount of hopeless litigation will, by the proceedings of the next three years, be thrown into our already inadequate and over-burthened civil courts.

39. I pass over for the present the immense litigation before the collectors, and the tens of thousands of "summary investigations" which everybody knows have an inveterate tendency to grow as long and tedious and complicated as the most "regular" investigations. I will pass over also the vast numbers of appeals from the so-called "summary" investigations of the collectors to the "summary" tribunal of the Commissioner, and thence, unquestionably, in very numerous cases, to the Board of Revenue in Calcutta. I pass over all this, though as all the under-tenants and self-styled under-tenants in the Lower Provinces must apply for investigation or lose their chance for ever, and as we have been told (*see* Sale Law Debate of 22d December 1855) that two-thirds of all the lands in Bengal are held in under-tenures, we may conceive what will be the flood of work poured upon the revenue officers by the operation of this Bill. But I am very desirous of calling attention to the necessarily large proportion of these many thousands of cases which, after passing through all the stages of summary litigation before the revenue courts, will eventually come, first as regular suits, and then in various forms of appeal, before the civil courts of the country, from the moonsiffs up to the sudder. It seems to me certain that the influx of litigation thus about to be caused will utterly choke and stifle the civil courts, and so produce inevitable delays and arrears, and all the enormous expense and other mischiefs therefrom invariably arising; and if this anticipation be correct, there will surely be an amount of hazard incurred by this part of the Bill far over-balancing all the good at which it aims, and this especially if it should appear that the essential end in view may be attained without hazard of any such dubious consequences.

40. Now I cannot but think that a slight modification of a plan suggested many years ago, and recently revived and adopted by Lord Dalhousie when Governor of Bengal, may be found, though perhaps not wholly free from objection, yet sufficient to ensure all or nearly all the essential objects of the present scheme without involving us in any of its greatest difficulties.

41. That plan was thus described by the honourable mover of the present Bill on the 22d December 1855: "That all under-tenures in an estate without exception or inquiry should be allowed to hold as good against an auction purchaser as they were against the former proprietor, as long as the parent estate should be saleable at a price that would cover the arrears of revenue due from it; but that, as soon as the parent estate should fail to be saleable at such a price, it should be forfeited to Government, and the whole of the post-settlement tenures should be annulled; whereupon Government should proceed to form a new settlement of the land."

42. Setting aside the unessential objection which in the debate quoted was taken to the plan of "forfeiture," an objection at once obviated by changing forfeiture to Government into purchase by Government, only two substantial objections could, it appears from the debate in question, be found to the plan proposed—one, that it would not ensure complete protection to honest under-tenants holding at fair rates; the other, that it would tend to cause the creation of fictitious tenures, and thereby diminish the value of estates. It may perhaps be found that the first objection is capable of being removed by an additional provision which will certainly improve the plan. The other objection may also, I think, be partially, but very sensibly obviated; and the residue of objection that will then remain will perhaps, when carefully examined, appear comparatively slight and inconsiderable, or, at all events, not comparable in weight and importance with the benefits of the plan on the one hand, or, on the other, with the much more formidable objections which, I cannot but think, beset the scheme of the present Bill.

43. It will be convenient in examining these two objections to invert their order, and treat, in the first place, of the second objection. This second objection was thus stated :— " If this measure (that is the measure proposed by Lord Dalhousie) were introduced, there was no doubt that it would open the way to fraud. There was no doubt that many zemindars would create benamee and other talooks in their estates at inadequate rents, or would pretend to have created such talooks. Their estates might be purchased by persons in ignorance of the fraud, who would ultimately discover that they had bought a losing concern, or a bag of lawsuits; and the consequence of frequent bad bargains of this sort would be that the auction value of all zemindarees, even of those in which no such frauds had been really committed, would be diminished. He had no doubt that such fictitious tenures would be created in many cases, and he believed that a general reduction of the value of zemindaree property would be the consequence."

44. Now I would submit that it might go a great way towards removing this objection to enact, regarding tenures created after the passing of the Act, that they should not in any case be valid after an auction sale unless registered. The registry would enable all interested persons to acquire perfect information as to the creation of new under-tenures, so that no auction purchases could hereafter take place "in ignorance of the fraud," but all would know exactly what they were going into; and then if any one should purchase a bag of lawsuits, it could only be because he was partial to lawsuits, and who then could say him nay ?

45. And the further effect of this amendment might surely be, that any diminution of value of zemindarees that might be caused by the fraud of the zemindars would take place only as to the zemindarees in which the frauds had occurred, and would not necessarily or probably extend to others; and there would certainly be no need that we should trouble ourselves to mitigate to the fraudulent zemindar the obvious consequence of his own fraud, namely, the reduced price he would receive for his zemindaree when brought to auction sale.

46. But if any one should pursue this farther, and should say that these frauds would soon throw the zemindarees in which they had been committed into the hands of Government, I should reply unhesitatingly that this would be a positive good.

47. It has been matter of question whether the permanent fixing of the Government land revenue, which took place in the Lower Provinces under the administration of Lord Cornwallis, was or was not disadvantageous to the country; and plausible arguments have been advanced on both sides. But whatever be the sound judgment as to the question of permanently fixing the Government demand in the land, there has never been any room for doubt that the manner in which the permanent settlement was actually carried into effect was in the highest degree erroneous and objectionable. The intention of the permanent settlement was to recognise and confirm existing rights in the land, and to prevent encroachment on those rights for the future. The effect of the settlement was, however, to erect into landowners men who were mere tax collectors, and to give them almost unlimited power over all the old village proprietors; thus exposing to hazard a vast mass of long existing rights, and creating new and unknown rights of property where they had never been before. The consequences of this (which was quite distinct from the permanent fixing of the Government dues, and need by no means have accompanied that measure) have been deeply injurious to the great body of real proprietors whose rights were sacrificed on the occasion; and the bad consequences of the measure may be traced at the present day in many of the evils which penetrate into and vitiate so much of the constitution of our rural societies. The only chance of breaking any part of this system down (and every breach in it is a blessing to thousands) is through the purchase of zemindarees by Government at auction sales. Opportunities for such purchases occur indeed but rarely; but when they do present themselves, I would submit that they should never be neglected. Every zemindaree so purchased is a population redeemed and regenerated; and well would it be for Bengal and Behar if there were any prospect of such purchases on a far larger scale.

48. This much as regards the second objection to the scheme of the Government of Bengal. As to the first, it may, as I would submit for consideration, be fairly met and sufficiently obviated by providing, as it would I suppose be perfectly safe to provide, that the Government, after purchase of a zemindaree by auction sale, should be debarred from cancelling or enhancing the rent of any tenure which might be proved on Mofussil investigation to be honestly and adequately assessed. This would surely "give complete security to under-tenants holding under honest titles at fair rents," and would entirely prevent the possibility of the occurrence of the supposed case of the industrious and the idle talookdars put as an example in the speech of the honourable mover of the Bill already quoted, wherein the industrious talookdar was devoted to ruin under the Bengal scheme for the sole fault of his idle brother. I would submit that, with the amendment now suggested, which could produce no possible hazard to the Government revenue, industry would be as certain of its reward as in the celebrated pictures of Hogarth; and if so, the whole of this first objection would seem to be satisfactorily removed.

49. There is however, a question regarding post-settlement under-tenures which I have not seen adverted to in any of the debates or correspondence regarding this Bill, but which seems to me very worthy of consideration, namely, whether there are not some under-tenures which, far from encouraging agricultural improvement, are by their nature so ruinous

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and destructive to the public weal as to render it highly desirable to discourage them by all means in our power, and even to get rid of them as far as possible, instead of doing anything to encourage and perpetuate them. I mean those tenures which are extremely common in Bengal and Behar, and more particularly in Bengal, which convey a right of collecting a half or a fourth or any other share of the rents of a mehal or a division of a mehal or a village. There are numerous cases in which one "Khoodkasht ryot has to pay his little rent in shares to three or four or more talookdars, or other under-tenants of the zemindar; every sharer trying to get the most he can, and to over-reach his co-sharer, and the ryot being ground to powder between them all." This is notoriously one of the curses of the country, carrying with it the most bitter and ruinous consequences. In its present shape this Bill will tend to perpetuate the evils of this cruel system; but I would hope that it may, on further deliberation, be found practicable to take a different course.

50. In advocating the plan (with some amendments) of the Bengal Government, I am fortified by the strongly consenting opinion of Lord Dalhousie, and of some of the best informed and most experienced of the officers who have been consulted on the subject, besides that of at least one well-known non-official person who has given much attention to the matter, and is highly qualified to speak with authority regarding it.

51. To conclude, then, without affecting any accuracy of legislative expression, but merely as a means of more clearly explaining my sentiments, I would desire, on the subject of under-tenures, to legislate somewhat as follows:—

"The purchaser at a sale held under this Act shall acquire the estate, subject to all leases, assignments, or other incumbrances existing on the estate at the time of sale, with the following exceptions; that is to say, the said purchaser shall be entitled to avoid and annul all leases, assignments, and other incumbrances created subsequent to the passing of this Act, which may not have been duly registered within one month from the date of the deed constituting the incumbrance, and at least three months before the date of the sale; and the said purchaser shall also be entitled to annul and avoid all tenures created since the permanent settlement, whether before or after the passing of this Act, and whether registered or unregistered, the terms of which may entitle each of the holders thereof to collect a share of the rent of each ryot or other subordinate tenant within the tenure in question.

"When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the collector may purchase the estate on account of the Government, and the Government by such purchase shall acquire the estate free from all incumbrances which may have been imposed upon it subsequent to the time of settlement, and shall be entitled to avoid and annul all under-tenures, and to eject all under-tenants, with the following exceptions:—

"First. Istemraree or mokurruree tenures, which were held at a fixed rent more than twelve years before the permanent settlement.

"Secondly. Tenures existing at the time of the permanent settlement which have not been or may not be proved liable to increase of assessment, on the grounds stated in Section LI., Regulation VIII., of 1793.

"Thirdly. Any tenure created since the permanent settlement, the holder of which may be willing to enter into engagements to pay for the term of the tenure such a fixed rent as the Government may assess upon it, not exceeding in any case two-thirds of the total amount of the ascertained ryottee or mofussil assets comprised in the tenure.

"Provided that no tenure created since the passing of this Act shall be entitled to exemption from annulment under the preceding clause, unless the same were duly registered within one month from the date of the deed constituting the tenure, and at least three months before the date of the sale.

"Provided also that no tenure created since the permanent settlement shall be entitled to exemption from annulment under the third clause of this section, if it be a tenure the nature of which may entitle each of the holders thereof to collect a share of the rent of each ryot or other subordinate tenant within the tenure in question.

"Fourthly. Lands held at rents not less than the rent of good arable land in their neighbourhood whereon dwelling-houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk."

52. The law framed on this principle will, as I humbly incline to believe, subserve all the essential purposes of the Bill now under consideration, without, as it seems to me, incurring any of its most serious difficulties.

53. It will preserve all under-tenures intact in the event of ordinary sales for arrears of revenue, except in the rare case of a purchase by Government in default of other sufficient bidders; and even in that event, it will assign a limit to the power acquired by Government, which will ensure the stability of all tenures held at fair rents, without in any degree hazarding the Government interests. It will cause no new measurements or mofussil inquiries, because, when an estate is bought by Government, a mofussil inquiry must necessarily take place; and this inquiry, which would at all events be made, will disclose all the facts required for the security of the tenant as well as for the security of Government. It

will occasion no increase of litigation, but, on the contrary, immensely diminish it. For on the one hand, it will cut off all that large class of lawsuits which now occur after a sale between the auction purchaser and parties claiming rights of permanent under-tenancy, and, on the other, it will send tenants to court against the Government or Government against tenants only in those rare and scarcely supposable cases in which the Government, after a purchase and a measurement, may be unwilling to comply with the provisions of the law in favour of under-tenants holding or willing to hold on rents proved by Mofussil investigation to be fair and adequate.

54. The plan proposed will, as I humbly conceive, give to all *bonâ fide* tenants as complete security and stability as they are capable of receiving, nor can I foresee any strong objection to it, but that it will allow a zemindar to create fictitious under-tenures for his own benefit. If, however, these tenures be created at adequate rents, there is no reason that I am aware of why they should not be upheld as well as any other fairly rented tenures. If they be created at inadequate rents, they will be invalid against a purchaser unless registered; and if registered, all the facts regarding them will be known and capable of examination by all interested persons, so that no one need be ignorant of their existence, or, with moderate ca re, of their real nature, before he attempts to bid for the estate.

55. If a zemindar should create a large number of inadequate tenures fraudulently, the value of his estate will fall, and he will suffer in proportion to his frauds. If the frauds have been extensive, the estate will soon become the property of Government by a transfer, which, happen when it will, can rarely be anything but advantageous to the prosperity and social advancement of every fair tenant and every honest ryot on the estate.

56. There is yet, as I am disposed to believe, one more advantage connected with this plan, which, if I do not deceive myself, is an advantage of no small importance. If it should hereafter be determined to legislate in like manner for subordinate tenants after the sale of a superior under-tenancy, such as a putnee-talook and the like, this plan is capable of being applied to them with comparative ease and simplicity. I have expressed my grave doubts whether the plan proposed by the Bill be practicable as regards tenures immediately under the zemindar; but I shall not be accused of over-hasty assertion, if I declare my opinion that there can be no doubt as to the impossibility of applying the plan of the Bill to the cases of subordinate tenures (whose name is legion) under superior under-tenancies. The inquiries needful for so applying it could never surely be carried on by Government agency, and to throw them into the hands of private zemindars is never likely to be proposed as a safe and practicable measure of legislation.

57. With these observations, I would now submit the papers for the consideration of the Legislative Council.

(signed) *F. J. Halliday.*

Malda, 2 September 1856.

Mr. RICKETTS' MINUTE on the Sale Law Improvement Bill.

Section XII.—The orders of the collector under this section are made appealable to the higher revenue authorities in regular course, and are also made subject to reversal or alteration by the civil courts; I would not have any appeal beyond the collector. The inquiries under the section are as to the possession of a party, and as to the amount of jumma payable, should either be contested by another sharer. One decision in the revenue courts will be quite sufficient. I should be inclined to allow no appeal to the collector from the decision of his deputy, but it may be well for the present to admit the interference of the collector to the extent to which he can exercise it in other departments of his office.

Section XV.—I can see no objections to the provisions of this section. It certainly provides for redemption of the land-tax, and in the manner proposed I see no reason why the tax should not be redeemed. It is not probable that many will take advantage of the rule, and if it were probable, still I would have the rule. It is not intended to decrease the resources of posterity, while the redemption will have the effect in promoting improvement of a complete exemption from all liability to the State, the resources of posterity will be in no way affected by the transaction. The existence of the debt, and the necessity for paying the interest thereof, are facts. The transaction will be equivalent to redemption of the land-tax for a money payment at 25 years' purchase, and the immediate application of the money to the liquidation of so much of the debt; supposing the debt to be extinguished by redemption, or in other words, supposing all the public securities in existence to be deposited under the Act, I do not see how posterity could suffer; there would be less land revenue to receive, but there would be no interest to pay. I do not see that the condition of the country would be improved in many respects. Imagine Bengal with no collectors' offices, no last days of payment, with all their griefs and anxieties, no settlements with "unfortunate" over-assessments, no turning out escorts for treasure at unreasonable times, all the cost of collectors' and deputy collectors' establishments, guards, &c. &c. saved and laid out in improving the courts and the police. I can see no object in the land tax, except to meet State expenditure. Unless it be denied that the landed interest would prosper more without the tax than with its payment of debt by redemption of tax would be advantageous.

Section XXXV., Clause 2.—It will be necessary on the part of Government to watch closely applications for registry of tenures under clauses 1 and 2; otherwise, by means of fictitious cases, the Government revenue might be very injuriously affected.

The wives, brothers, and cousins of the zemindars will be put forward to claim the registry of talooks as not being liable to enhancement; the zemindar will consent to registry, or, in order to prevent suspicion of fraud, will defend the case sufficiently to give a fair colour to the transaction; and the registry of many talooks at inadequate jummas having been effected, the estate will be allowed to fall into balance, and will ultimately come into the hands of the Government with all the talooks secured by registry. It is provided that, at any time within 60 years, fraudulent registry may be set aside on fraud being proved at the suit of Government in the civil court; but the difficulty of such proofs after years have passed will be excessive, and such litigation is to be avoided if possible. I would have two classes of such cases; one merely between the parties, and not affecting the right of Government to increased assessment in case of Khas management—the other class to be special, the interest of Government in opposition to the registry to be considered, and the collector's order in favour of registry to be subject to the confirmation of the Commissioner. I would add the two clauses underwritten to section XXXVI.

"Provided always that if it be intended that registry of a tenure of the first or second class shall protect the tenure against a re-settlement, on the part of the Government, in the event of the estate at any time coming into the possession of Government by purchase, under section XLVII. of this Act, such intentions shall be distinctly set forth in the application, which shall be styled applications for special registry; and in such cases registry shall not be allowed without the sanction of the Commissioner on the report of the collector if that officer decide in favour of registry; or on the appeal of one of the parties if the order of the collector be against registry."

"Any party dissatisfied with the award of the Commissioner may, within one year from the date of the award, institute a suit in the civil court for the reversal of the same, and the Government shall be made a party to such suit."

Section XXXVII.—As concerns the Government, this is the most important section of the Act. It is in some respects in accordance with the principles I have before advocated, but I think there would be practically great difficulty in carrying it into effect as it stands. On a party applying for the registry of a new under-tenure created at any time since the settlement, the collector "is to satisfy himself, that the rent to be paid by the proprietor of the under-tenure is fully sufficient to afford a fair proportion of the revenue assessed on the parent estate." The ascertainment of this sufficiency to afford a fair proportion would be in many cases next to impracticable.

According to the wording of the draft the collector would have to ascertain that the rent of the tenure was fair—fair with reference to the revenue assessed on the whole estate, that is proportionate, not disproportioned to the burthen to be borne by the remaining lands of the estate.

Of course this can only be determined after ascertainment of the rent of the tenure, and the rent of the remainder of the zemindaree. In order to comparison both must be determined. In large estates such an inquiry would be interminable. Take, for instance, Burdwan; an under-tenure held under the Rajah of Burdwan could not be registered under the Act, until the rental of the whole of the Burdwan Raj had been ascertained.

I would abandon all endeavour to ascertain what would be the proportionate, the fair rental compared with the whole rental of the estate, and confine inquiries to ascertaining that the rental fixed on the tenure to be registered is suitable. If the lands are in the hands of ryots, under ordinary circumstances the rent should be about 60 per cent. on the ryottee rental. If the land is to be held immediately by the lessee without the intervention of any ryots, the rent should be about 30 per cent. of the gross proceeds. When circumstances are peculiar, special inquiry and special terms of registry will be needful.

By these means the interests of the State may be sufficiently protected in the event of the estate coming into the hands of the Government, and the tedious and expensive process of comparison will be avoided.

But, unless the parties desire that the registry should be good against Government as well as any other auction purchaser, I cannot see the necessity of inquiry. Indeed, in practice, I feel assured it would make the law a dead letter, and deprive those who have urged the enactment of this law of the very thing which they have all along been seeking.

Under the Act, as drafted, no under-tenure could be created and registered without the approval of a revenue officer of the Government. A zemindar may desire to raise money by letting a village for a term of years at a light rental, receiving a sum of money down for the lease; a zemindar may desire to borrow money and to make over a village to the lender for 20 years, the debt to be paid from the usufruct; a zemindar may desire to make over a village to a younger brother to be held by him free of all payments for his life; a zemindar may desire to give to a party a block of jungle on a lease for 80 years to be held rent free for the first 20, and then to pay a light assessment; a zemindar may desire to lease a swamp for 50 years, receiving no rent on condition that the farmer lays out a certain sum on embankments; or, as in the case of Mr. Mackenzie, which first led to the agitation of this question, a zemindar may desire to lease a quantity of poor land for the planting of date trees for a long term of years at a very low rate. No such tenures could be registered under the law; but it is, I conceive, in every point of view desirable that such transactions should be protected, and it was for the purpose of procuring protection for such transactions that the agitation of this question was commenced.

The Government could not by any possibility suffer from such transactions, if the registry is merely to be good against auction purchasers other than the Government; and the country at large must benefit from them, for they are indispensable to confidence, without which capital will not be expended; and if it is desired that such transactions should stand in case of purchase by Government, there would be no difficulty in devising conditions of registry combining all necessary security for the Government, with all necessary security for the lessee.

The most noble the Governor-general, in his minute of the 21st October 1852, writes, "The case in which the Government becomes the purchaser of an estate in the absence of any other bidders is so distinct from the case in which a purchaser is found in the market, that I am surprised to find there are objections to the provision that the Government, when so purchasing, shall have the power of invalidating some of the under-tenures which ordinary purchasers are not to have." I desire to maintain this distinction; but provided the terms of registry are made suitable to the condition and circumstances of the tenure to be registered, I can hardly imagine a case in which it could be necessary for the Government to object to registry.

If a zemindar having given a village to be held at a pepper-corn rent after receiving a price for such lease, defaults, I see no reason why the purchaser at a sale should have any more right to annul that lease than a private purchaser would have had. If it be registered, the purchaser knows what there is left to buy, and he will bid accordingly. To annul such leases when the purchaser is not the Government is wantonly to injure the owners of such tenures, and through them to injure the country. To annul such tenures when Government may be the purchaser is, provided the tenures were registered, unjust to no one, for all parties made the bargain by which the tenures were created with full knowledge that such would be the case; and, though injurious to the country, not so injurious as would be the permanent diminution of resources, if such tenures were as a rule to stand.

But when demanded (which I believe would be very rarely the case, for nearly all would be content with security against the effect of ordinary sales) I would have inquiry made such as I have proposed above, and allow registry with protection against purchase by Government in perpetuity, or for a limited number of years, according to the circumstances of each case.

In the minute I have before quoted, the Governor-general remarked: "I conceive that a perpetual lease for any agricultural purpose can hardly be desirable." In Mr. Mackenzie's case in all probability it would suffice to give protection against auction purchasers other than the Government. If he did desire protection against a Government purchase, may be, he would be entirely satisfied with a guarantee for 50 years, and I think such a limited guarantee would be suited to the case. The land he would take, though poor, is capable of being made exceedingly profitable. I would allow guarantee sufficient to ensure to him full return on the capital expended; but I see no reason why the Government should deprive itself of the power of benefiting from the improved condition of the country when such return has been completed. I would not therefore give a guarantee in perpetuity.

In a word, I would have no inquiry as to assets and fair proportionate rental when registry is to be good against other purchasers than the Government only; I would have buyers and sellers, owners, and farmers, zemindars and tehsildars, without any hinderance, make such bargains as they considered most conducive to their interests; but I would insist on registry, with particulars sufficient to show the exact extent to which the proceeds of the estate had been alienated, so that purchasers should know what there was left to buy. When registry has to stand against the Government, then I would have inquiry made as to the extent to which the interests of the Government would be affected by the registry, and forbid it or permit it to be made with guarantee for 20 years, or 50 years, or 99, or in perpetuity, with reference to the circumstances of each case.

The draft makes the collector's orders under sections XXXVI. and XXXVII. open to appeal to the superior revenue authorities in usual course, and subject to suit in court, if instituted within one year of the collector's decision. When registry is to affect the interests of the Government, that is, to guarantee the stability of the tenure, notwithstanding purchase by Government, I would have the registry confirmed by the Commissioner. Without this the collector's order would be practically final. In the cases in which the Government might suffer most, no one would appeal or resort to the civil court. I would not in any case allow appeal to the Board of Revenue.

I would substitute the following for clauses 2 and 3, section XXXVII. of the Draft:—

"There shall be two sorts of registry of tenures of the 3d class, ordinary and special; ordinary where a tenure shall be secured against auction purchasers other than the Government; special whereby a tenure shall be secured against Government also."

"If the application be for ordinary registry, the provisions of clause 2, section XXXVI. shall be held applicable."

"If the application be for special registry, in addition to the process prescribed in clause 2, the collector shall institute inquiries with a view to the security of the public revenue. He shall acertain the extent and capabilities of the tenure to be registered, and satisfy himself that the rent assessed in the tenure is not inadequte, or such as would deprive the Government of its just dues in the event of the zemindaree interest lapsing to the Government under section XLVII. of this Act. Having made all necessary inquiries, the collector shall reject the application for special registry, or sanction special registry with guarantee against re-settlement for 25 years, or for 50 years, or for 99 years, or in perpetuity, as he may consider suitable, and shall submit his proceedings for the sanction of the Commissioner whose order on the collector's report or on appeal, should either party appeal, shall be final."

Section XXXIX.—I would have no appeal to the Commissioner in cases in which the Government has no interest at stake. Under clause 2, section XXXVI. any party dissatisfied with the collector's award may institute a suit in the civil court within a year. As the draft stands, one party might appeal to the Commissioner and the other might take the case into court. It cannot I think be desirable to have two or three decisions in the revenue courts, and afterwards two or three decisions in the civil courts. Practically, many of these cases will be disposed of by deputy collectors, and I would not allow of any appeal by right to the collector, much less from the collector to the Commissioner.

In cases of registry in which the Government has an interest, and which consequently partake of the character of administrative cases, I have provided for appeal to the Commissioner, but I would not allow a further appeal to the Board even in these cases. The interests of the Government may I think be trusted to the Commissioners; other parties have the civil courts open to them.

Section XL.—The wording of this section is extremely obscure.

Section XXXV., Clause 4.—I conclude the intention is that rent shall be levied, after notice, under Regulation V. of 1812, equal to the rent of good arable land. If such is the intention, it should be more clearly expressed; but rent of "good arable land" is too indefinite. Good arable land in Assam pays four annas per beegah, in some villages of Bengal good arable land pays 24 rupees per beegah. I would add the words "in the village provided that in no case shall increased rent levied under this section exceed three rupees and eight annas per beegah of 14,400 feet."

(signed) *H. Ricketts.*

Mr. DUNBAR's MINUTE on the Sale Law Improvement Bill.

THERE is much in the proposed law to recommend it, and legislation on some of the new subjects introduced is very desirable, indeed I might perhaps more properly say, indispensable, but on these points in particular I doubt the practicability of carrying it out as it stands. The nature of these doubts will be gathered from my remarks on those sections which appear to me to require amendment.

Section IX.—This section provides that any party in a suit pending before a court of justice for possession of the estate or any part thereof, may deposit the amount of the arrear of the revenue before sunset of the latest day of payment, and may thereupon be ordered by the said court to be put into temporary possession, under security; I think the law should declare him entitled to recover the amount of the deposit, with or without interest as the court may direct, not from the proprietor of the estate, as laid down in the Bill, but from the estate itself, which should be restored to the defaulting proprietor after repayment in full, according to accounts passed and approved by the Court.

Sections X., XI., and XII.—Section XI. provides that a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate may apply for leave to pay his share of the Government revenue separately; and section XII. provides that, in such a case, summary inquiry shall be made should objections be raised as to the amount of jumma payable by such portion, the point of inquiry being whether the jumma is or is not that which has been (previously) recognised by the other sharers. In such a case the estate is joint, but the tenancy separate. It may frequently happen that a party will be found in possession, and that the specific lands have for some time paid a fixed and recognised jumma; but it may also be clear beyond question that such jumma bears no fair proportion to that which is left to be discharged by the remainder of the estate. The propriety of legalising such payments upon such grounds appears to me extremely questionable. To receive payment according to a man's interest in a joint estate, as provided for in section X., is fair and reasonable; but I think it is going too far to direct the acceptance of a jumma, on a specific portion of a joint estate, often arbitrarily fixed without any reference whatever to the assets of that portion and of the rest of the estate.

Parties in the position supposed in section XI. should be left to disconnect themselves from their co-sharers by the usual Butwarrah process. I should strike out section XI. altogether, and remodel section XII. so as to provide only for cases under section X.

Sections XV. and XVI.—I heartily approve of this new provision. It will be a great encouragement to English capitalists to invest money in the purchase of land in this country.

Section XVII.—I concur in the propriety of the protection given to estates under the management of the court of wards; but I am disposed to doubt whether the privilege proposed to be conferred on minors of whose property the court of wards has not assumed the management under the provisions of Regulation VI. of 1822, is necessary. Assumption of management of the property of minors is the rule, and exemption should be given only under circumstances which render interference unnecessary and unadvisable; one of these should be due security for the payment of the Government revenue. To allow the revenue of the minor's estate to remain outstanding, during the whole period of his minority, might frequently be to do him an irreparable injury. Estates of which the court of wards do not take charge under Regulation VI. of 1822, are usually insignificant and of little profit, and the balances accruing during a minority, might sometimes be much more than the property would fetch.

Section XXIII, line 20.—Supposing the price bid by a defaulting bidder to have been more than the arrear for which the estate was sold, it seems scarcely fair, in addition to the forfeit of his deposit, to make him answerable for the whole difference between his bid, and the price eventually obtained. I think it would be sufficient to make him responsible for any part of the arrear which might yet remain due after a conclusive sale. Forfeiture of a 25 per cent. deposit, and this contingent further responsibility are quite enough to keep off collusive or reckless bidders. Default would probably be the consequence of inability arising from no dishonesty of purpose. In such a case, if Government secures its own demand, I do not see why it should go beyond that to enable the defaulting proprietor to compel the defaulting bidder to make him a present.

Section XXIX.—There is one condition of restoration to possession in this section which appears scarcely just. A party may obtain a decree annulling a sale, but he is not to be put in possession "until any amount of surplus purchase-money that may have been paid away by order of a civil court be repaid by him with interest at the highest current rate of Government securities," as by a subsequent section (XXXIII.) it is provided that no person shall be entitled to contest the legality of a sale, after having received any portion of the purchase-money: the repayment here provided for must of course refer to payments made to other parties. I do not see on what principle they should be chargeable to a party who in no way benefited by them, or why they should be allowed to affect his right under a decree which must be grounded on considerations of an entirely different character.

Section XXXIII. Proviso.—I think it is desirable that the acts or omissions pointed out in this proviso should be more distinctly specified. Left as it now stands, I fear it may give rise to unpleasant and very inconvenient difficulties.

Section XXXV. Exception fourth, line 55.—The fixed rent here spoken of should be declared to be of good arable land "in that locality."

Section XXXVI.—The purpose of these rules is extremely good, but I much doubt their sufficiency; they apply to old talookdaree tenures, many of which are of great value. It will be an easy enough matter for the person desiring to register to give all the particulars required to be set forth in the application; but I confess I have no hope that the grave questions which these applications must inevitably give rise to can be disposed of satisfactorily by summary investigation and award. If the proprietor objects to the area of land said to be comprised in the tenure, to the boundaries, to the rent and cesses, and the duties incident to it, unless these points are all clearly and distinctly laid down in the deed by which the tenure was originally constituted, or clearly omitted in some other document, it is quite impossible for any officer to give an award with any just confidence that he is right.

As registration is to give full protection to such tenures in cases of sales of entire estates for arrears of revenue, I am clearly of opinion that it should be made dependent on the result of an investigation of a more careful and extended character, or on the establishment of the claim in the civil court.

Section XXXVII.—This section calls for the most careful and deliberate consideration. It seems to me impracticable to carry out its provisions as they stand in the Bill; no collector could, by means of a summary investigation, satisfy himself that a new tenure has been created in good faith, so far as the interests of the Government revenue are concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed upon the parent estate. Nothing short of a detailed process, similar to that employed in cases of butwarrah, could give the collector the necessary assurance. The remarks of Mr. Ricketts upon this section appear to me very much to the point. I beg to make special reference to them, and to state that they have my general concurrence.

Section XXXIX.—I would allow appeal to the Commissioner, but to the Board only on special grounds.

Section XLIII.—If a proprietor is *bonâ fide* sold out, and subsequently acquires the means of buying the estate, as in the case of patrimonial property he may naturally wish to do, it seems hard that he should not come in on precisely the same terms as anyone else. If the person from whom he purchases has acquired the estate without encumbrances, I do not see how it could be made subject to them again.

25 April 1856. (signed) *J. Dunbar.*

Appendix, No. 7.

Mr. Dampier's Minute on the Sale Law Improvement Bill.

The intent of the proposed law is very good, and I have known so much injustice done and distress occasioned by the system of selling entire ijmallee estates for the arrears due by single shareholders, and the not affording protection to those who were willing and ready to act in good faith as to their proportion of the Government revenue, as well as by the avoidance of nearly all newly created under-tenures in estates sold for arrears of revenue, that I am glad to see a law proposed which may, I think, with a few alterations in detail, remedy the evils and insecurity so generally complained of.

My colleagues have remarked on the law in detail, and although I generally concur with them, I should wish to add a few remarks.

Sections X., XI., and XII.—I do not anticipate any great difficulties in carrying out the provisions of these sections, nor do I think that the interests of the Government are at all likely to suffer from their enforcement. There is always so much jealousy amongst ijmallee shareholders, so many discordant interests are to be consulted, and almost always some of the shareholders are found to be adverse to the separation of the others from the joint property, that the collector might always be certain to have objections on claims preferred which would enable him to check or detect any attempted frauds on co-sharers or the Government. I do not look forward to any of the evils from section XI. which I see Mr. Dunbar thinks may arise from such part of the law. In the districts where the survey has been completed those records will materially aid the collector in coming to a decision; and although, as Mr. Dunbar states, the jumma on the specific portion may be arbitrarily fixed, so long as it has a fair proportion with regard to its extent and proceeds to the jumma of the entire estate, no injury can be done by admitting the possessor to a separate account. The collector has, I presume, the power of rejecting such a claim. The collector's inquiries are confined to the possession of the alleged portion of the estate by the applicant; I would therefore have his order open to revision by the civil court, as in dakhil kharij cases.

Sections XV. and XVI. have my fullest concurrence, and I hope extensive use may be made of their provisions.

Section XVII.—I think it might be advisable to adhere to the provisions of Section IV., Regulation VI. of 1822. Under the proposed enactment an accumulation of arrears might accrue to the ruin of the minor on his coming of age.

Section XXIII.—I would not allow the defaulting proprietor more than one option of recovering his estate by the payment of his arrear in case of the default of the purchaser or purchasers.

Section XXXI.—By whom is the interest to be paid? I suppose by the Government, as the sale can only be annulled for non-observance of the provisions of the Act by section XXIV., or, in cases of peculiar hardship under section XXV.

Section XXXV.—I concur with Mr. Ricketts, the wording should be "good arable land within the village, or in the vicinity of the village."

Sections XXXVI. and XXXVII.—These are the most important parts of the law; and I very much doubt if any summary inquiry could enable a collector to carry through the objects proposed by them; and I agree generally with Mr. Ricketts that it would be advisable to make such registration protective against all auction purchasers, excepting the Government; and I would have the collector, previous to the sale of any estate, have the books of the registry in a place where all would inspect them of each estate, so that intending purchasers might ascertain the number and rentals of the protected properties. If the registers are not to be protective against the Government, I think that the necessary inquiries based on Mr. Ricketts' calculations might be conducted without much difficulty, according to Regulations VII. of 1822 and IX. of 1825. If otherwise, the inquiries would interminable and impracticable, though section XLVII. limits the cases in which the Government may purchase.

Section XXXIX.—If Mr. Ricketts' modifications are adopted, appeals to the Board of Revenue should only be admitted on special grounds, which is the practice now in settlements.

Section XLIII.—The provisions of this section are, I think, necessary to prevent collusion and fraud.

See Section III., Act I., of 1845.

I wish to add one more remark: Is it the intent of section III., which says that estates in arrear in default of payment shall be sold by auction to the highest bidder, to bar any other mode of realizing arrears in the permanently settled districts, and thus rescind by inference, though not in direct words, Section IV., Regulation I. of 1801? as, if so, the revenue in Sylhet will fall into balances. The collector reports, that by means of that section alone he is able to realize it in the small tenures of that zillah.

1 May 1856. (signed) *W. Dampier.*

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of *Bengal*, No. 243, dated *Fort William*, the 25th June 1856.

Land Revenue.

Sir,

In continuation of my letters noted in the margin, upon the subject of the proposed new law regarding the sale of estates for arrears of revenue, I am directed to submit the following additional remarks for the consideration of the Lieutenant-governor.

J. Dunbar, esq., W. Dampier, esq., and H. Stainforth, esq.

No. 229, dated 18th instant.

No. 235, dated 20th instant.

2. The subject has been touched upon in the minutes of Messrs. Dunbar and Dampier; but as Mr. Stainforth entirely agrees in opinion with the other members of the Board, and as he has had much experience in the district to which these remarks principally apply, the Board think it right to bring the subject again and prominently to the notice of his honour.

3. The immense number of the estates on the rent-roll of the district of Sylhet, and the very small jumma they generally bear, has rendered it necessary for the local authorities to collect the revenue, partly by distraint and sale of personal property of defaulters, under the provisions of Section IV., Regulation I. of 1801; and the annexed statement will serve to show the extent to which recourse has been had to the Regulation in question. This practice was continued in 1845, after the passing of Act I. of that year under the sanction of the then Board, and the majority of the present Board consider it to be legal, and such is also the opinion of the late legal remembrancer, Mr. C. Trevor. Mr. Dunbar has doubts upon the point of legality consequent upon the passing of Act I. of 1845.

4. The Board, however, are unanimous in considering that such a provision is indispensably necessary, in a district like Sylhet, to the due collection of the Government Revenue, and they are of opinion that it should be distinctly re-enacted in the new law. They do not, however, consider it necessary that the express sanction of the Board of Revenue should be applied for in every instance with a full report of the circumstances under which recourse to distraint is considered necessary, as Section IV., Regulation I. of 1801 contemplates; but they think a general power should be given to the Board of Revenue to invest such collectors as they considered proper, with the power of distraining the personal property of revenue defaulters before bringing the estates in balance to sale.

I have, &c.
(signed) *E. T. Trevor*,
Officiating Secretary.

Number of Estates in respect of which the Collector acted on the special Authority of Board.	Sudder Jumma of Estates in foregoing Column.	Average Number of Estates per Annum in respect of which Collector acted, &c. &c.	Sudder Jumma of Estates in foregoing Column.	Average Number of Estates in each Kist (3 in Sylhet) in respect of which, &c. &c.	Sudder Jumma of Estates in foregoing Column.
1,49,575	1,96,680	14,957	19,668	4,985	6,556

From the Commissioner of Revenue for the 12th or *Bhaugulpore* Division, to the Secretary to the Board of Revenue Lower Provinces, *Fort William*, No. ——, dated 4 June 1856.

Sir,

I beg to acknowledge your Miscellaneous Circular, No. 2, dated the 26th of February last, and to submit, annexed, for the consideration of the Board, the reports on the Bill of a new Sale Law received from the collectors in this division.

2. The two chief alterations of the law proposed in the Bill consist in the protection it offers to sharers who pay their quotas of the revenue, and the confirmation of the under-tenures mentioned in class 3 of the exceptions in section XXXV.

3. The former of these measures seems to me calculated to afford some very desirable relief to co-sharers with perfect safety to the revenue of the State. Moreover it will be beneficial to the ryots, as clearing up, in cases on which it takes effect, all doubt regarding the person entitled to receive rent for them, and as tending to check the evil of under-tenures which spring up in some districts as irrepressibly as weeds on the land.

4. Section X. is well calculated to afford relief to sharers in whole estates; but the great majority of proprietors, where sub-division has taken place, are sharers in mouzas or component parts of estates; and as the jumma of mouzas has not been apportioned, it will be impossible to assign shares of jumma in such cases proportioned to the jumma on the whole estate.

5. The consequence will of course be opposition to the vast majority of applications for separate accounts in shares in component parts of estates; provided that the fact of such applications having been made becomes known to co-sharers, and there is time for opposition; and the result must be that most of the applicants will be referred to the Civil Court.

6. A law for the apportioning the jumma of mouzas seems a necessary preliminary to carry out fully the objects of section X. and very desirable. No objection to such a measure would be consistent with our present laws, for such apportionment can be claimed under the Butwarrah law.

7. If sections X., XI., XII., and XIII. are to be enacted as they are in the Bill, there seems reason to anticipate that proprietors will frequently sell small shares of land with large shares of jumma, and thus compel co-sharers either to allow property larger and more valuable than that which the fraudulent sharer has reserved, to be sold for arrears of revenue, or to pay those arrears, and he make good in future the jumma unfairly apportioned.

8. It is quite possible, in spite of the precautions prescribed in section X, that co-sharers may be ignorant of applications for separations of accounts, or they may be away from home, or struck with sore sickness, or prevented by some cause equally potent from appearing within the time allowed.

9. Some check might be given to the separation of accounts without the knowledge of co-sharers by doubling the time allowed for objection; but this remedy might be very injurious to the honest applicant, and I can devise no better check than that of allowing closure of any accoant which may appear to have been opened unfairly at any time within one year from the date on which it was opened.

10. The second great alteration proposed by the Bill is that of recognizing and confirming under-tenures which the present law declares annulled by sale for arrears of revenue.

11. The two interests chiefly to be regarded by the Legislature in the amendment of the the Sale Law are, I apprehend, indisputably that of the great mass of the people, and that of the State which is necessary to control and protect it. To these all other interests seem of secondary importance, and should apparently be so treated.

12. It does not, however, appear to me that the importation of the third class of exceptions in section XXXV. into the Sale Law is consistent with due observance of this principle. It will render purchasers of shares of estates, the least exceptionable tenures as regards the State and the cultivators of the soil, less frequent; and it will make room for numerous gradations of idle middlemen, placing over the actual cultivators of the soil superiors, whose divided resources diminishing with their increasing numbers (vide Maltus), will allow them to afford no assistance when crops are poor, and must be equally apt to fail in furnishing the funds necessary to make the Malgoozar to discharge the public revenue; so that, as regards the ryots and the State, encouragement of these tenures seems to be much to be deprecated.

13. Again, the network of under-tenures, with which the Bill promises to cover the land, seems a texture of injustice to co-sharers, who will be compelled either to allow their own shares to be hammered away at sales, or to purchase others in which their wasteful co-partners have created sub-tenures, leaving them no profit adequate to the price they have been forced, under the alternative above mentioned, to pay.

14. Under-tenants, too, are very apt to combine in order to exclude those who purchase their rights, and this has a strong tendency to prevent realization of the Malgoozar's dues, and to throw estates, where section XLVII., restricting the power in section XXXVI., Regulation XI. of 1822, tacitly admits they ought not to be unnecessarily thrown, that is, on the hands of Government.

15. Under these considerations I am adverse to the confirmation which class 3 of the exceptions in section XXXV. would give to under-tenures. I approve highly of the encouragement the Bill holds out to the purchase of shares of estates; but for this very reason, among the others which I have stated, I deprecate strongly the propagation of under-tenures, which are at present unknown in some districts, as jeopardizing the stability of the revenue, as discouraging economy in co-sharers, as producing complication, fraud, and litigation, as dangerous to the zemindar, and as sinking the ryot to the lowest ebb of helpless and hopeless poverty.

16. It seems to me quite impracticable to carry out the directions at page 26 of the Bill. Ameens cannot be trusted in such matters, and if the collector can do the work therein cut out for him, he must either be a very complying officer, or be endowed with supernatural knowledge and power.

17. With these remarks on the two principal points of the Bill, which I am well aware do little justice to the important subject, I proceed to offer a few remarks on other matters in the Bill.

18. Section V. says that no interest in an estate is to be sold for recovery of demand not being land revenue, but which are similarly recoverable, saving after the notification therein

described; and if an under-tenure amounts to an interest in an estate, the terms of the section are deficient in precision, seeing that by Section XXV., Regulation VII., 1799, we can, under certain circumstances therein set forth, recover rent as revenue, and enforce its realisation by sale after the notice entered in Regulation VIII., 1835, which is other than that prescribed in section V.

19. The expression "due time" in section VIII. of the Bill and existing Act, is very vague. It cannot, of course, be intended that money placed to the general account of a Malgoozar, after the latest date fixed for payment, shall be transferred to his credit in the account of his estate; but it seems doubtful whether a sum credited in his general account before the said latest date, is not necessarily transferable on an application made subsequently to such date and at any time before the sale. This ambiguity might now be removed.

20. The power given in section IX. to mortgagees to prevent sales of estates seems to me objectionable. A is mortgagee under a deed of conditional sale from B. The latter, to pay off A, wishes his estate sold off by the collector to the best advantage, so that he may have something over for himself. The Bill allows A to prevent this, and perhaps enables him to foreclose his mortgage, and thus obtain the estate on what may be very inadequate consideration.

21. I do not perceive why the highest offer mentioned in section XIV. must be equal to the amount due up to the date of sale, when the liability of the purchaser will, under section XXXII., run from a different date, up to which only, under section XLIV., the defaulter has claim to rent.

22. It seems doubtful whether payment of revenue cannot be, according to the tenor of section XV., after the latest dates fixed for payment.

23. Some addition seems necessary to the closing provision of section XXIII., seeing that it may be impossible, from some cause or other, to receive the tender of payment by the defaulter at the time it is made; apparently he should not be allowed a longer time than that given to auction purchasers for completing payment of his balance, especially as some estates are made saleable only twice a year, and some even only once.

24. It occurs to me that section XXV. should be altered so as to allow the Commissioner to recommend reversal of a sale, even though a petition be not presented within the time specified in section XXIV. A proprietor may be in the clutches of his adversary, or the jaws of death, and thus incapacitated for filing a petition within time. Relief in such cases should be rendered possible.

25. If we are to sell "rights and interests" in estates under this Bill, as I suppose we are, in realisation of balances which have accrued in estates other than those in which the said rights and interests lie, alteration seems necessary in this section.

26. I do not understand how the execution of a decree mentioned in section XXIX. can be obtained without restoration to possession. The terms seem to me synonymous and convertible.

27. A slight alteration at the commencement of section XXXIII. of the Bill seems necessary, because, as noticed in paragraph 17 of this letter, we can, in realisation of demands recoverable as revenue, sell under a different Act.

"And whereon no arrear of rent was due on the latest day of payment of revenue as fixed under sections III. and IV. of this Act.

28. I am very doubtful of the propriety of leaving the words noted on the margin in the specification of the first and second classes of exceptions in section XXXV. of the Bill. Section VI., Regulation VIII. of 1793 shows dependent talookdars who were at the time of the decennial settlement deemed proprietors. Their tenures, like many others, are transferable, and many of them very valuable; at present they can only be brought to sale under a summary decree for rent due at the end of the year (Clause 7, Section XV., Regulation VII., 1799). The Bill converts these talookdars, if they are in arrear at the time the estate in which they are situated is sold, into mere leaseholders, and deprives them and others of what they would obtain if their tenures were sold after paying the rent due on them, which may be in arrear from causes beyond their control; and this alteration of the law not only affects them very seriously, but may be deeply injurious to creditors also. The farmer of the Bill has blown hot on the interests of creditors in section IX., and cold on them in this section.

29. In addition to what I have recorded in respect to sub-tenures generally, I beg to remark, in respect to those now existing, which are included in Class 3 of the exceptions in Section XXXV., that the terms under which these tenures were conveyed may have ostensibly conferred perpetual rights, but the parties knew well that the rights in question were really avoidable by sale for arrears of revenue, and the price paid was proportionately small. The Bill under consideration proposes to give to the tenant the difference of the price paid and the price which would have been paid, to the loss of his landlord.

30. To make the measure fair to the zemindars, it seems to me that the tenures in question should at all events remain liable to be voided by sale for arrears of revenue, unless the under-tenants intermediately secure themselves by purchasing their continuance.

31. The rent of good arable land varies from 24 rupees a begah, for the tobacco and potato land at Hajeepore, to four annas a begah in some parts of the Sontal pergunnah; so that it seems necessary to say where the "good arable land," with the rent of which the rent of the land in the fourth class of exceptions in Section XXXV. may be equalised, is to be held situated.

32. I would add to section XXVIII. the words "or by the decision of the superior revenue authorities;" and I would alter section XXXIX. by making the awards of collectors open to revision by those authorities, with or without appeal.

33. I would remark on section XLIII., that Section XXXIV., Regulation XIX., of 1814, urgently requires amendment. The leading principle of the present sale law and Bill is that the revenue shall be paid by a fixed date; but any owner of a specific mehal under butwarrah is at liberty to pay after this date, as, until it expires, it is impossible to ascertain the share of balance which he ought to tender; and because in practice it is impossible to carry out the provision of the section.

I have, &c.
(signed) *H. Stainforth,*
Late Commissioner, Bhaugulpore Division.

From the Collector of Tirhoot, to the Commissioner of Revenue Bhaugulpore (No. 104), dated Tirhoot, 28 April 1856.

Sir,

I HAVE the honour to acknowledge the receipt of the Board's letter (No. 2), dated the 26th of February, with your order passed thereon, dated the 1st of April; and with reference thereto, beg to report my sentiments on the new sale law, together with those of Mr. Deputy Collector Davies.

2. The sections which most affect this district are X., XI., XXXVI., and XXXVII. On receipt of your order I thought it necessary to intimate to the most influential and respectable zemindars, that I should be happy to entertain any sentiments which they might think necessary to urge in modification or otherwise of any of the sections embodied in this Act; but to my astonishment these gentlemen are silent, and up to the present moment I have not been favoured with any reply to my requisition.

3. The information obtained from the Record Office with reference to the various settlements of 1797, 1824, and 1830, lead me to anticipate great difficulty in carrying out the provisions of the Act, should the smaller proprietors of estates oppose. I will take for instance, the settlement of Talook Luckhunpoor. In 1797 this estate consisted of one usli and nine dakhli villages; the sudder jumma was fixed at *Rs.* 860. 12. 6. A portion of this estate was sold for arrears of revenue, under the provisions of Regulation I. of 1793, section X. The estate was afterwards divided into two portions, with separate numbers and jummas on the rent roll but the area of the estate was not apportioned out to the purchasers at auction, the lands remained in joint occupancy. Now, in the event of all the proprietors coming forward and demanding that a separate account be opened, there will be no difficulty in complying with their request, but Talook Luckhunpoor may be the property of 50 or 60 maliks, some proprietors by right of inheritance, some by right of purchase; one malik may hold an anna share, another a pie share, another a gundah share, another a cowree share, another a krant share, another a dunt share, another a musunt share, and another a raen share. Opposition to the application there must be, not from one of the proprietary body, but from half a dozen of them, particularly as section XI. rules that the application must contain a specification of the land and its boundaries. The shares in properties in this district are sub-divided to such an extent that we seldom think of registering the share of a proprietor in the mutation register; we refer the individual to the civil courts, merely inserting his name in the mutation register, without specification of shares.

4. Again, the rent of a mehal comprising many villages has been settled in the lump. The rent roll is mehalwar and not mouzawar. A proprietor may hold a two-anna share in two villages out of ten villages comprising the mehal; or perhaps he may hold one village entire out of ten villages. On his application to open a separate account, there can be no difficulty in carrying out the provisions of the Bill, provided all the other proprietors are agreeable to the arrangement; but the suits instituted under the provisions of Regulation VIII. of 1800 preclude my anticipating any such happy combination of circumstances as would permit my carrying out the provisions of the Bill without constantly referring parties to the civil court. The parties must there seek their redress in the civil courts, and the mehal remains *in statu quo ante.*

5. The landed proprietors of this district are very wealthy. The advances made yearly by the indigo planters and Government on two products alone, indigo and opium, are, at the lowest computation, forty lacs of rupees. The tobacco crop on the ground on a beegah of land, sells for 40, sometimes 50 rupees the beegah. The value of land of course rises in proportion, but large zemindars do not exist in this district with one exception; for out of 5,804 mehals on the rent-roll of this district, one mehal only is the property of the Maharajah of Durbhenga. The necessity of registering the names of proprietors on the mutation

register without specification of shares, the necessity of referring proprietors to the civil courts to determine their rights and interests in landed estates, proves to my mind most completely that sections X. and XI. will remain a dead letter in this district. The boon intended to be conferred on the proprietary body will be the cause of frightful litigation in the civil court.

6. The majority of the landed proprietors are Hindoos, and those of the upper classes, Rajpoots and Brahmins, are notoriously litigious; it remains to be seen whether their love of litigation and natural disposition of combativeness will succumb to self-interest. The suits instituted under Regulations VIII. of 1800, and XIX. of 1814, have solved this problem in favour of their love of litigation. The law on paper looks very pretty indeed; it is an admirable Bill, and meets with my entire approval; but to carry out its provisions with success is quite another affair. The success of the measure is with the proprietary body; their shares in estates being divided into anna, pie, gundah, pun, krant, dunt, musunt, and raen shares, must preclude my anticipating its successful working; on the contrary, that it will cause an enormous amount of litigation in the civil courts, is to me matter of no doubt whatever. Doubtless many proprietors (where the proprietary body in the mehal do not exceed eight or ten individuals) will take advantage of the provisions of this Bill, but my knowledge of the native character precludes my entertaining any sanguine hopes of its working with celerity and smoothness, not because the provisions of the Act are faulty, but because the native of India is naturally of a litigious disposition, and he is perfectly miserable if he sees his neighbour's condition more prosperous than his own. In a small village community of proprietors this feeling of enmity, one towards another, is intense; to that community the new sale law will be a curse, and not a blessing. Mr. Davies has expressed his sentiments as follows:—

"I have the honour to acknowledge the receipt this day of the Board's Circular, No. 2, dated the 26th February, in which a report is required from collectors on the Bill for improvement of the law relating to sales of land for arrears of revenue. The term is so general that it is difficult to know on what particular point a report is called for. Local peculiarities in regard to landed property which might be affected by the alteration the law is about to undergo there are none; the right of ownership in regard to superior and subordinate tenures are the same here as those prevailing elsewhere in this province.

"The relief offered by separating responsibility is very great indeed, and this measure is hailed with the utmost satisfaction by all the proprietary body. The approval of the principle is universal, and it is a matter of some surprise that, being so obvious and also one by which the Government benefits in an equal degree with the landholder, its recognition should have been so long deferred.

"On the details of the measure by means of which this result is secured it is difficult, without being allowed further time for study and thought, to offer any opinion with consideration.

"But on the first perusal of the Bill, there is a provision in Sections X. and XI., in regard to the period allowed, within which objections are permitted to be made, which struck me as being objectionable on account of its very limited duration. The circumstances under which a party possessing an undoubted right may be prevented from appearing within six weeks are innumerable, and will readily occur to every one; an extension of the time therefore to afford greater facilities for appearance is, in my humble opinion, absolutely necessary. One of the gravest objections to the provisions of the existing butwarah law, is the restriction in the time allowed for bringing forward adverse claims, an objection which has been repeatedly and forcibly brought to my notice by reason of the great number of butwarah cases I have to dispose of in this district. Hence my anxiety to see a similar fault avoided in this law.

"I have another objection to urge. It refers to the unlimited extent to which separate responsibility is permitted. I admit that the principle cannot be gainsaid; every sharer, however small his possession, is entitled to be secured in his just rights. But the question is, how will such a law affect landed property ultimately, from the encouragement it gives to fractional division? I have had cases before me in which applications have been made for the partition of land paying 11 annas revenue, and less. The expense and difficulties which occur in carrying through a butwarah case deter small shareholders, in many instances, from applying for the separation of their interests in a joint estate; but under the present law the separation of shares held in common tenancy will be easy and inexpensive, and the applications which will pour in will not count by hundreds or thousands but by tens of thousands, and in this district more especially, where the proprietary body is known to be very large.

"The most important, as also the most difficult question involved in this Bill, is the one which relates to the security given to under-tenures; from obviously selfish and interested motives the landholders are, as a matter of course, opposed to any legislation on this subject. The question, however, has to be considered not with reference to class interests, but on the broad principles of equity and justice, and with due regard to the security of the public revenue; but on this point the opinion of any one like myself, whose experience is confined to minor revenue matters, cannot be of any weight or consequence. I shall, therefore, be held excused for not offering any suggestions, and indeed the little I have written on the subject of this Bill has been written with diffidence and hesitation, and more out of respect to the wish you expressed that I should consider and report upon the proposed enactment than from any desire of my own to give an exposition of my opinions."

I have, &c.
(signed) *E. F. Lautour*, Collector.

From the Officiating Collector of Monghyr, to the Commissioner of Revenue for the 12th Division, Bhaugulpore, No. 60, dated Monghyr, the 22d April 1856.

Sir,

In obedience to the instructions of the Board of Revenue, No. 2, dated 26th February 1856, I have the honour to submit a report on the proposed new sale law.

2. I presume that this report is only called for on such parts of the proposed law as may differ from Act I. of 1845. Sections X. to XVII. of this law enact a system of summary division of estates, and Sections XXXV. to XLI. detail at length a system of registration of under-tenures corresponding with the general provisions of Section XXVI. Act I. of 1845. With the exception of these two very important parts, the proposed law is generally similar to Act I. of 1845, with slight differences, such as the omission in Section XXVIII. of the words, "provided such arrears have accrued since the possession of the defaulting proprietor" (Section, XX. Act I. of 1845).*

3. The proposed system of summary butwarrahs appears to me scarcely necessary. The security which is designed for part owners could be conferred by some slight changes in the present butwarrah law, with less danger to the revenue. If the grounds of this opinion be wrong, the Board will, I trust, remember that my experience as a collector does not extend beyond one month. Under the present law a shareholder can always prevent the sale of the estate by paying up the balance due from another owner before sunset, and can recover the amount from the defaulter under Section IX., Act I. of 1845. And were the butwarrah law changed by the rescission of Circular Orders, No. 235, 24th July 1841, and No. 25, 20th January 1841, and a regular division of any shareholder's property from the main estate or the separate mehal rendered legal, such shareholder paying all expenses himself, then by instituting a regular suit, any shareholder may protect himself.

4. A summary butwarrah, such as is planned in the law under consideration, is very dangerous to the revenue, and opens the door to litigation endless. If every owner of a cowrie of an estate, the whole estate being perhaps a jagheer of five or six beegahs, is entitled to open a separate account with Government for the payment of one pie annually, and entitled to have the sixteenth part of a beegah measured off the said estate, there will be great increase of labour in the collections, and great opportunities of fraud. There are many small estates of this kind (with many owners) in this district. It may be said that this petty ownership does and must exist, and the law merely protects the owners. But registering a right is a very different thing from mere protection, and by the rules of political economy the extreme subdivision of the land is a certain cause of weakness in the state, a fact which is so certainly known as to have given rise to the law of primogeniture; consequently the extreme facility which the proposed law will give to this subdivision is impolitic, and it is possible that the occasional suffering of a part owner whose estate is sold for another's arrear may be and is productive of good to the state.

5. Sections XXXV. to XLI. of the proposed new law contain detailed instructions for a system of registration of under-tenures, such registration having been allowed in general terms in Section XXVI., Act I. of 1845. That this rule is unnecessary, at least in this district, is proved by the simple fact that no under-tenant has ever availed himself of the provision; and as under-tenants appear to me sufficiently protected by Section XXVI., Act I. of 1845, and Section X., Regulation V. of 1812, I think that this registration, if carried into effect to any extent, would materially increase the difficulty of realising arrears of revenue from estates, and would open the door to much fraud.

6. I have mentioned above my belief that a trifling alteration of the Division of Estates law would render any summary division unnecessary, an alteration which the Board of Revenue could effect without the interference of the Government. By filing petitions for such summary divisions just before the quarter day (which would prevent the sale of their shares), endless confusion and serious loss of time and revenue might be caused by fraudulent parties. For these various reasons the proposed sale law is in my humble opinion unnecessary, and, wherein it differs from Act I. of 1845, impolitic.

I have, &c.
(signed) *W. Tucker*, Officiating Collector.

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* So in original.

From the Officiating Collector of Bhaugulpore, to the Commissioner of Revenue, Bhaugulpore Division, No. 102, dated Bhaugulpore, 19th April 1856.

Sir,

I HAVE the honour to acknowledge the receipt of the Board's letter, No. 2, dated 26th February 1856, calling on me for a report regarding the draft of a new sale law, and in compliance with the Board's orders, beg to submit a few brief comments regarding it.

2. The objects set forth in the preamble are most undoubtedly of the highest consequence, and the security to landed property given by an Act such as the one proposed, if carried out fully, will give a stimulus to the expenditure of capital on land which did not before exist.

3. The difficulty in carrying out the provisions of the Act in this district lies in the increase of work which it would throw on all departments of the collector's establishment, (this could however be obviated by increasing the establishment) to carry out the provisions of the Act, without a considerable increase in both the accountants towjee and other departments, would be, I believe, impossible.

4. On the towjee of this district there are borne 3,632 mehals, as noted below.

DESCRIPTION of MEHALS.	Number of Mehals paying a Jumma exceeding 100 rupees.	Number of Mehals paying a Jumma less than 100 rupees.	TOTAL.
Nizamut.			
1. Mehal permanently settled - - - - - -	563	702	1,265
2. Invalid Jagheer Mehal permanently settled - -	2	1,722	1,724
3. Mehal temporarily or summarily settled or let in farm - - - - - - - - - -	0	0	643
	565	2,424	3,632

According to the provisions of the Act, there is no limit as to what shares are to be permitted to open out separate accounts. In many estates the number of shareholders is very large and the amount of sudder jumma paid by each consequently small; I presume by the scale of fees entered at the end of the draft Act it was not intended that very small shareholders should be permitted to take advantage of the Act, and I would beg to suggest that no separate account should be permitted for any share not paying a sudder jumma of at least fifty rupees per annum to Government; and I believe that were this limit to be fixed, the number of applications for being allowed to pay for their shares separately would be very large; and I do not think it advisable to permit the indulgence of a separate account any parties whose share does not pay such a sum annually.

5. The security given to farmers by Section XXXVII. of the draft Act is of great importance, and it appears to me that the precautions noted therein for the prevention of the registration of farms fraudulently granted at low jummas (provided that can be carried out) are sufficient; I cannot but think however that to carry out the provisions of this section in a manner to fulfil the intentions of the Act will be very difficult, especially at first when a great many applications may be expected.

6. The report or measurement of an ameen which cannot be tested by an officer of the department, is not ground on which a collector can with any confidence decide as to how far the jumma put on the same is fair as regarding the sudder jumma of the estate, and in most cases of collusive farms there is no likelihood of any objection from any party, as the zemindar and mostajir would be both in league on the matter; and should local investigations not be held by an officer of the collectorate, it is probable that the Act may be taken advantage of in many instances to secure through the concurrence of ameens the registration of farms assessed at fraudulently low jumma.

7. The only security against this is in my opinion a local investigation, and I believe it to be of the highest importance to the public that this be insisted on; if assistance be given to the collector by covenanted or uncovenanted assistants sufficient to enable him to institute real inquiries into the matters regarding which he is required to satisfy himself by this section, the registration of farms will be a boon to the public, but I do not think that without such sufficient inquiry it will be productive of good. I would propose that no farms paying a jumma of less than 100 rupees be considered capable of being registered.

8. It

Appendix, No. 7.

8. It appears to me that the number of dakhil kharij suits instituted will be greatly increased by the promulgation of this Act.

9. I see no valid objection to the proposed Act, with the exception of the increased work which will be thrown on the collector's establishment, which is already too small for the work expected of it; should it become law, I trust that from the fees which are realised from applications under it, extra aid may be permitted to be entertained. At present the accountant's department in particular is much over-worked, and for every share that is separated from the parent mehal the number of chellans and entries in the zemindary account will increase, and the difficulty of making up the accounts during the last days of payment will be still more felt than it is at present. The Act is framed with a view to protect the interest of those who pay the Government revenue, but to enable it to do so efficiently it will be necessary to provide the collector with means sufficient to carry out its provisions.

10. I have but a very short time since entered the revenue line, and have still a great part of my time occupied by magisterial duties; the call for a report on this Act is urgent, and I regret not to have time to spare from my other duties to give the matter more thought, and more time to the writing of this report. I beg to forward this letter, trusting that the great press of business which occupies my time will serve as my excuse for its brevity and for any imperfections which it contains.

I have, &c.
(signed) *E. Russell*,
Officiating Collector.

From the Officiating Commissioner, Burdwan Division, to the Board of Revenue, Calcutta, No. 270, dated Burdwan, the 29th March 1856.

Revenue.

Gentlemen,

I HAVE the honour to acknowledge the receipt, on the 10th of this month, of your Circular, No. 2, dated the 26th February, requesting me to call for a report from each of the collectors of this division on the Bill for the improvement of the law relating to sales of land for arrears of revenue, and to submit the same to your Board.

Bankoora,
Burdwan,
Hooghly,
Midnapore.
The return from Beerbhoom has not yet been received, but will follow.

•2. In accordance with this request, I forward the returns mentioned in the margin in original, and beg to state my own opinion on the Bill as called for also by your Board.

3. The draft law proposes the following alterations in the existing law:

First. The extension of the ordinary law of sale to the province of Cuttack, which has hitherto been exempted from its operation.

Secondly. The securing the rights of a mortgagee who pays up the balance due from an estate.

Thirdly. The securing the rights of a solvent shareholder against the default of his co-sharers.

Fourthly. The securing the rights of a solvent proprietor against the neglect or fraud of his agent.

Fifthly. The securing the right of under-tenants.

4. On the first point the opinion of the Commissioner of Cuttack will probably have decisive weight. I am aware of no valid objection to the proposed extension.

5. The second point secures the right of mortgagees very effectually, and, in my opinion, very fairly and properly. By the present law, although a mortgagee may pay up the balance due on an estate, that gives him no additional lien upon the property; he can only recover the sum so paid as a common debt in the regular mode through the civil courts. The draft law, however, provides, at the end of Section IX., that if the mortgagee can prove before a court of justice that the deposit made by him was necessary in order to protect any lien he had upon the estate, the amount so paid by him, "shall be added to the amount of the original lien." This amendment seems to me, as I have said above, a very just and proper one, and a great improvement upon the old law.

6. The third alteration protects the solvent shareholder from the default of his partners. There can be little question, I imagine, as to the propriety of this amendment if it be possible to carry it out; but the difficulty is, as to how it should be done. The draft Act proposes that every sharer in an estate, whether a sharer in a joint estate held in common tenancy or the holder of the specific portion of the land of an entire estate, should be able to protect his share from sale by paying up his own portion of the balance, and that in such cases the Collector, after certain inquiries, must open a separate account in his books for the solvent shareholder (Section X.), and must credit separately to his share all payments made by him on account of it.

7. It strikes me that this mode of proceeding will hardly answer the purpose contemplated; that is to say, that it will be found in practice so complicated and cumbrous, that it will probably break down.

8. There are hundreds (literally hundreds) of estates in this district alone, which pay less than one rupee per annum, and some of these have "recorded sharers," any one of whom may, under the new law, claim to have a separate account opened for him in the collector's office. What a mass of complicated accounts this will necessarily give rise to.

9. One of these "recorded sharers," for instance, comes to the collector on the latest day of payment, tenders the amount of his share, and gives in a written application asking to have a separate account opened in his name. The collector receives the money at once, and on the next day issues the notice required by Section X., and not until some time after can he decide upon the propriety or otherwise of allowing a separate account to be opened in his books. He may have hundreds of such applications, and the last of them may not be decided on for some weeks, or even months. In the meantime the collections and accounts in the office are thrown into confusion, and I am not sure that the Government revenue may not, perhaps, suffer in consequence.

10. Take a case for instance: A, B, C, D, are recorded proprietors of Mouza E. A, B, and C, deposit their separate shares and crave a separate account, but D deposits twenty rupees, saying that half, not only a fourth, of the estate is in his possession. After some time the collector "institutes a summary inquiry into the fact of possession," and decides, under Section XII., that D is in possession of a two-fifth share of the estate, and A, B, and C, of one-fifth share each. Now here will be a difficult matter to settle, for every one knows how very complicated butwarrah cases are at all times; but this is not only a butwarrah case, but an Act IV. of 1840 case also; and under the proposed law such cases may occur over and over again.

11. It seems to me, on the whole, that the draft Act mixes up, unnecessarily, a butwarrah law with a sale law, and that it would be preferable to separate the two—to pass the sale law without any butwarrah provisions, and to make a separate enactment for the latter purpose.

12. But if it be determined to have the two together, I would certainly recommend that a limit should be laid down, and that the benefit of separate payments should not be allowed to any shareholder who does not pay at least (say) 50 rupees per annum.

13. It is said that the share of a poor man paying 40 rupees per annum may be of as much concern to him as the estate of the Maharajah of Burdwan paying 40 lakhs, and that therefore it is not just to lay down any limit. It may not be easy to gainsay this, but still if we find in practice that this cannot be carried out, as I think, we must set aside the plea of universal justice for that of general utility. If there is no limit, the shareholders paying anna and even pice jumma are entitled to a separate account equally with these who pay lakhs; but this would, to my mind, give rise to so much complication and confusion in the accounts, as to jeopardise the entire scheme.

14. There should also, I think, be some limit as to the time within which applications for separation of shares should be required to be made. For instance, all such requests should be made in writing (say) one month before the last day of payment of revenue.

15. There is another point which I may notice connected with this part of the subject, namely, whether in case a sale takes place of a share which has been separated, and no bid be offered equal to the amount of arrear, a second period of ten days should be allowed to the defaulter to pay up his original balance. I would strongly urge that it should not; this indulgence would break in upon the essential principle of the sale law—a principle which has been found to work so admirably—and I should be very sorry to see it thus set aside. Such a clause would be, to my mind, a step backwards in legislation.

16. With regard to securing the rights of a solvent proprietor against the fraud or neglect of his agent, by allowing the former to deposit with the collector cash or Company's paper for the purpose of being applied to the payment of arrears, I imagine, there can hardly be two opinions. This will be a very great boon to all proprietors of land, and will be looked on as a benefit of no ordinary kind. The advantages are so self-evident that it seems strange it should never have struck any one before.

17. There should, however, it seems to me, be a discretion allowed to the collector to reject such applications, if he thinks fit. Without this we shall have landholders depositing Government securities with the collector merely to get rid of the trouble of drawing the interest themselves; others may place it in the collector's treasury for security's sake, and not for the purposes contemplated by the law.

18. I now come to the most important part of the draft Act, namely, the subject of under-tenures.

19. Under the present law all recent under-tenures fall on the sale of the parent estate. The natural consequence is, that but few capitalists will lay out their money on land to which they can get no sufficient title. Capital is universally admitted to be the great want of India, and therefore it may be not unfairly said that the present sale law has the effect of contracting, instead of developing the resources of the country; of depressing, instead of raising the value of land, and of discouraging, by every means in its power, the introduction of men of European skill, and enterprise and capital, into the interior of India.

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20. Many years ago the present Lieutenant-Governor of Bengal proposed a plan by means of which, as it seems to me, all these drawbacks would have been avoided. He suggested that under-tenures should not be in any way affected by a sale, that they should stand as good with the purchaser as with the old proprietor who created them, and that the sale in fact should be made subject to all the incumbrances which may have been imposed upon it before or after the time of settlement by any former proprietor. If, from the over-creation of such tenures, the value of the parent estate should have fallen below the amount of the Government revenue, so that the latter would be jeopardised, it was further proposed, at that time, that the estate should revert to Government, who would be empowered to make a new settlement of the land.

21. This always seemed to me a very complete remedy for the great acknowledged evil of the present law, one which would get rid of all the reasonable complaints of honest under-tenants, and at the same time secure, in the most complete manner, the revenues of the Government; but the draft Act proposes something quite different, and we are now told that the proposal to which I have alluded above does not give complete security to under-tenants, that it is a "half measure at best."

22. The new proposal is, that all under-tenures should be registered, and that when the holder of a new under-tenure (that is, of one created subsequent to the settlement) applies for registration, the collector should immediately cause the talook to be measured and surveyed at the expense of the talookdar. Then, if the collector is satisfied that the rent of the talook is fully sufficient to afford its share of the jumma of the estate, the tenure will be registered in complete detail, and this registry will secure it, in all time coming, whatever may become of the estate.

23. With much deference to the great name and to the acknowledged ability of the proposer of this amendment, I must say that I doubt very much whether it is calculated to benefit the person whom it professes to advantage (namely, the under-tenant) as much as is supposed; and it seems to me eminently calculated to jeopardise the Government revenue.

24. First, as to the under-tenant. By the original proposal his lease would stand good, notwithstanding a sale, and it would only be in case the value of the entire estate sunk below the amount of the sudder jumma that it could ever be hereafter questioned.

25. My belief is that this is a contingency which would but rarely occur, except in the cases which it was intended to meet, namely, cases of fraud; and in such cases, who would wish to uphold the interests of the fraudulent under-tenants?

26. It is notorious that the value of permanently settled land has risen very greatly during the last half century. If it had not done so, should we have two-thirds of the land in Bengal held under talookdaree tenure as at present? The original zemindar would not let his land except on a profit which the talookdar has to pay, and this profit shows the increased value of the land.

27. Wherever, therefore, there are under-tenures, especially when they are held by men of capital, we may be pretty sure that the parent estate is not likely to fall into the hands of Government from depreciation.

28. In the very uncommon case of a *bonâ fide* depreciation of permanently settled property by (say) diluvion, or the decay of old markets, or any other accidents, the under-tenure would be liable to a re-settlement, and it is said that advantage might be taken of this by the Government, and that the collector would fix the revenue of every beegah of land according to its existing value; so that a meritorious under-tenant would be fined by an enhancement of his jumma for having improved the value of his tenure at his own expense. But if this is the only objection, and it seems to me, I must say, very much of a visionary one, it might be partly remedied by declaring that in any new settlement so made, the new jumma of the entire mehal should not be raised above the permanently settled jumma. Thus, if the jumma of the whole estate was 100 rupees, and that of the under-tenure 50 rupees, the collector, if he thought fit at the re-settlement to put a jumma of 90 rupees on the under-tenure, would be unable to put more than 10 rupees on the rest of the property. It may be asked how would this benefit the meritorious under-tenant? It would, at any rate, guarantee him against any exorbitant demand.

29. The amended proposal is declaredly intended to benefit the under-tenant himself, but I very much question whether that person would not prefer the original proposal to the new one. There would be no expense of compulsory registration, no trouble, no measuring, no surveying, no ameens, no mooktears, no inquiring into crops, assets, and so on, in order to "satisfy" the collector that the rent of the talook was sufficient to afford its share of the jumma of the estate. All would be clear before him, and he could lay out what capital he pleased on his property from the day after the amended law was passed, and never trouble his head about the zemindar or his affairs, and never be obliged, as is too often the case now, I am inclined to think, to advance money to the zemindar in order to prevent him from carrying out a threat of default. He would also, if the estate were brought to the hammer, have the option, which I believe in nine cases out of ten he would seize, of purchasing the whole property himself; or if he did not choose to do this, he might, I believe,

very placidly trust himself to be fairly dealt with by the collector, or, if not by him, by the commissioner, and failing him also, the Board and the Government.

30. And now as to the interests of Government under this new law. It strikes me that it leaves the Government too much in the hands of the collector. An under-tenant applies for registry. The collector causes the tenure to be measured and surveyed, and if he is satisfied that the rent paid by the under-tenant is fully sufficient to afford its share of the jumma of the estate, the tenure is at once registered, and this registry secures it for ever at the rent then fixed.

31. But do collectors never make mistakes in settlements? Are they never deceived by the ameens and subordinates to whom they must trust for a great portion of the information upon which their settlement must be founded? Are commissioners never wrong in their judgment in such matters? Has experience told us that the revenue authorities are immaculate? that they never commit an error or a fault in a settlement?

32. It may be worth the while of many under-tenants to spend large sums of money in furnishing false information during the progress of such surveys, but the collector's order once given, the under-tenant is safe "in all time coming;" there is no *locus penitentiæ* for the Government, the collector's order has been passed and cannot be amended.

33. On the whole, I am of opinion that the original amendment proposed would be found in practice to work better than the new one, that it would be more satisfactory to under-tenants, and that it would be a much safer principle for the Government to go upon themselves.

I have, &c.
(signed) *J. H. Young*,
Officiating Commissioner.

From the Officiating Collector of *Burdwan*, to the Commissioner of Revenue, Burdwan Division, No. 47, dated the 24th March 1856.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 40, dated the 10th instant, with its enclosure from the Board of Revenue, No. 2, dated the 26th ultimo, on the subject of the proposed Bill for the improvement of the law relating to sales of land for arrears of revenue, and with advertence thereto I beg to offer the following remarks:—

2. The fundamental alterations proposed by the Draft Act to be introduced, may be condensed under the following five headings:

I. The doing away with the necessity of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue in the province of Cuttack.

II. The securing to the mortgagee of an estate, in the event of his preventing the estate being sold by himself paying up the Government arrear, the same benefit *quoåd* the sum so deposited as he possessed in regard to his original lien on the estate.

III. The allowing landholders to deposit Company's paper with the collector, so as to prevent their estates being sold owing to accidental circumstances or owing to the fraud or neglect of their agents.

IV. The securing from sale the shares of non-defaulting co-proprietors in estates, whether the shares in question may be held in joint tenancy, or whether the area held by each sharer may be distinct.

V. The registration of *bonâ fide* under-tenures; both those which existed at the time of the decennial settlement, as well as those which have since been, or may hereafter be created, and the thereby upholding the proprietors of them in possession of their lands at the same rates as heretofore, whenever the parent mehal, of which they form integral portions, may be sold for arrears of revenue, or for other demands which are directed to be realised in the same manner as arrears of revenue.

3. It is to the last two most important of the five proposed fundamental alterations in the law that it is my intention chiefly to confine my remarks. I am not aware of any objection to the three other proposed alterations; but, on the contrary, I consider the concession which it is in contemplation to grant to mortgagees, and the allowing landholders to deposit Company's paper, to be eminently just and useful measures.

4. It occurs to me to remark, in connexion with the proposed change in the method of conducting sales of estates in Cuttack, that some alteration in the wording of Section V. of the Draft Act is called for in regard to estates which are not situated within that province. I allude to the second class of estates which it is proposed under the new law shall not be sold unless the provision of Section V. of the Act shall have been duly followed out in respect to them. I think it should be more clearly defined what is meant by permanently

settled estates. The Board of Revenue ruled in their circular, dated the 18th May 1842, No. 13, that estates could not be sold under the general provisions of the sale law until their settlements had been confirmed by competent authority. The mode of procedure which has been adopted in consequence of this ruling has been to dispense with the fifteen days' special notice of sale in all cases where the settlements having been regularly completed with the proprietors under the provisions of Regulation VII. of 1822, had been confirmed by competent authority, even although those settlements were temporary ones only. On the other hand, estates settled in perpetuity by the settlement officer or collector, but the settlement of which had not been confirmed by competent authority, could not be sold without the fifteen days' special notice being in the first instance issued. I do not think it can have been the intention of the framer of the new Act to put the temporarily settled estates of the districts of Bengal in a more favourable position than that which they before occupied, in a better position indeed than that which it is intended the Cuttack estates of the same calibre shall henceforward occupy; and it seems to me therefore that the wording of the section ought to be so altered as to continue the Bengal temporarily settled estates which have been confirmed by competent authority on the same footing which they formerly stood on and on which it is now proposed to place the Cuttack ones. In the same manner the section ought, it appears to me, to define that permanently settled estates in Bengal districts are not to be sold without the special notice, unless their settlement has been confirmed by competent authority.

5. Next, in regard to the proposition of staying the sales of the shares of non-defaulting co-proprietors of an estate, whether the shares in question are held in joint tenancy (ejmalee), or whether they are held separately (tafreek or chinnit). It appears to me that, in the former case, that is to say, where the whole estate is held in joint tenancy, the mode of procedure recommended by Mr. Grant may with much advantage be resorted to, and that, in the second description of cases, that is to say, where the land held by each of the co-proprietors is held by them separately, the same method of dealing with the separate shares of the estate may be successfully carried out, although the operation will undoubtedly be one of great labour and intricacy. I agree in the propriety of allowing a non-defaulting co-sharer in either of the above descriptions of cases to save his share from sale, and also of Mr. Grant's proposal to bestow that boon on all classes of estates, however small their extent and jumma; and I am also of opinion that the allowing co-sharers to open separate accounts with the collector for the sums due on their respective shares is a proper measure, although it will certainly cause much additional trouble to the collectorate omlahs in some districts.

6. The manner, however, in which the Bill proposes that the defaulting proprietor's share shall be dealt with when put up to sale, and the course which is to be adopted in selling the whole estate when the balance due on the share is not covered by the amount bid for it, appear to me to be open to objection.

7. I do not see why it should be considered necessary in the former case for the amount of the bid to be sufficient to cover the amount of the balance. If the balance due by the sharer was rupees fifty, why should not the collector be allowed to sell, supposing there was a *bonâ fide* bid of rupees five, or say of one rupee even, Government being left to realise the residue of the arrear from the defaulter in such manner as they might be able? There would certainly be danger sometimes of the defaulting shareholder colluding with the new purchaser, but I do not think such a result would often occur. I would empower the collector to sell on any *bonâ fide* bid which might be made for the purchase of the share, how small soever that bid might be, and by whomsoever (the defaulting sharer alone excepted) that bid might be made. I would restrict the collector receiving a bid from the actual defaulter unless it exceeded in amount four times the sum due. In this manner twenty-five per cent. of the purchase money would be at once realised from the defaulter, and the Government arrear would be at once recovered. There is nothing, that I am aware of, in the existing law, which prohibits an actual defaulter bidding for the purchase of his own estate when put up for sale for arrears of Government revenue; nor is it desirable, nor was it I believe ever intended, that any such restriction should be imposed on landed proprietors, who may from time to time for various reasons be desirous of ascertaining the market value of landed property in the different districts in which they are proprietors by putting their own estates to the test of a public auction.

8. Under the existing law the course which a collector would adopt in the event of the actual defaulting proprietor of an estate making a bid and there being no other bidders for it, would be to bid for Government up to the extent of the balance, and if the defaulter went beyond it, to knock the estate down to him; but, as of course Government would not buy shares in estates, this method could not be followed out in dealing with them, and I would recommend, instead of it, the modified plan which I have noted above. The collector would only have to proceed to the ulterior measure proposed by Mr. Grant when there had been no *bonâ fide* bid, however small, for the share, or when the bid made by the actual defaulter himself was less than four times the amount of the balance.

9. Where the co-sharers who had paid up, and to whom would be given the option of purchasing the defaulter's share in the event of the latter not being disposed of at the first sale, might not be able to agree among themselves as to who was to be the purchaser, it appears to me proper that some provision ought to be made in the Bill to decide the point. One of the co-sharers might say, for example, that he was ready to purchase the whole of the

defaulter's share, but that he was indisposed to purchase it in conjunction with his brother-sharers; and a second, perhaps a third, co-sharer, might say the same. To which of them in such case should the preference be given? To him holding the largest share in the residue of the estate? To the one who was prepared to pay the largest price? or, if the co-sharers could not agree amongst themselves as to who was to be the purchaser, would in such case the whole estate have to be brought to the hammer? I think that, in the event of dispute, the share should be sold to the highest bidder among the non-defaulting co-sharers.

10. With regard to the question of enforcing the registry of under-tenures, I am of opinion that it should be left optional with the proprietors of such of them as existed at the time of settlement to register or not as they might think proper. If registry were effected, it should thenceforward ensure the under-tenure holders from ejectment and enhancement of rent; but if it were not effected, I do not consider that the omission should be considered a sufficient ground for ignoring the validity of the tenure. To say nothing of the expense, there may be many good reasons why the holder of an old under-tenure is not prepared to register. He may have already obtained a suit in the courts upholding the validity of his tenure, or the very fact of his non-registering may be the means of inducing the zemindar to bring a suit to try the validity of a holding regarding which there previously existed no dispute whatsoever. I have no doubt that a very large number of the holders of the old under-tenures will take advantage of the provisions of the Act and will proceed to register; but, as I have remarked above, I would make the act of registering an optional, not an imperative one, and I would not put any limit on the period within which the old putnee holders should be required to proceed to registry, or in default of doing so, should lose the benefit they would otherwise have derived from resorting to it. From the wording of the Draft Act (Section XXXVI.), it would seem that the collector will not be required to make a survey of these old tenures when application is made to him for their registry, but that he is to be guided by the information filed by the applicant as to the boundaries and situation of the holding, and is to proceed at once to register in the absence of any objection on the part of the zemindar: but it seems to me that a survey and careful recording of these old tenures is quite as much called for as is a survey and record of the new under-tenures; for the zemindar might, if so inclined, collude just as easily with the holder of the one as he could with the holder of the other.

11. The proposal for surveying and registering the new under-tenures according to the rules laid down in the Draft Act is an equitable one, and although the carrying of it out will in many districts, especially in those to the eastward of Bengal, be attended with very great difficulties, still I think that the difficulties will not be insurmountable.

12. In this district (Burdwan) I do not anticipate much trouble in carrying out the work. The putnee talooks, generally speaking, consist of one or more whole villages, and as the boundaries of each village, as well as its exact area, will have been correctly marked out and ascertained by the revenue survey, the collector will find but little difficulty in ascertaining whether or not the annual talookdaree jumma bears a fair relative proportion to the gross revenue of the whole estate. The old collectorate papers will show him what were the area and assets of each separate village of each separate estate at the period when the records in question were drawn up, and although the assets and areas of some of the villages may now differ more or less from what they then were, yet I do not think that the difference will in many instances be found to be large.

13. Tracing out, surveying, and recording, parcels of land held in putnee, and the making an approximate calculation of their assets relatively to those of the estate of which they form a component part, will not be nearly so easy an undertaking where the under-tenures, instead of consisting of one or more whole villages, comprise, as is not unfrequently the case, only parts of one or more villages, those parts not being in one compact plot, but scattered in different pieces all over the village. The survey and the old collectorate papers will only in such cases be so far of assistance to the collector in enabling him to determine the relative area and assets of the under-tenure *quoâd* the gross area and assets of the parent mehal, that the former will show the limits and area of the villages in which the several parcels of land making up the under-tenure are comprised, while the latter will show the extent and jumma of the several villages as they stood at the time when the papers in question were prepared. It will still remain for the collector to survey and map the several parcels of land to ascertain the description of soil, and, having done so, to determine whether the putnee jumma paid by the putneedar for his holding is or is not fairly proportionate to that of the whole estate.

14. In this district and in Bancoorah, the registration of the putnee talooks will be materially assisted by the course which has been adopted in carrying out the revenue survey. The greater part of these two districts appertain, as you are aware, to a very few large mehals, which mehals are let out in putnee tenures of one, two, three or more villages in each, to a large body of putneedars now in Bancoorah. It not unfrequently happened that there were so many as 15, 20, 25, or even 50 contiguous villages all belonging to one and the same mehal, and the separate identification of each one of which was not therefore absolutely demanded by the survey rules; but as these fifty villages were all let out in putnee to several, perhaps, nearly to an equal number of putneedars, a mowzawarree survey, or what was in most instances an equivalent to a talookdaree survey, was deemed proper to be resorted to. This was effected in every instance in which adjoining villages were held by

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by distinct putneedars, and in almost every instance the boundary was amicably adjusted between the parties, all future disputes in the magistrate's and in the civil court as to the boundary between the adjoining villages or putnees being thereby set at rest for ever. The putnee tenures in Burdwan are very similar in nature and extent to what they are in Bancoorah, and they are being dealt with in the same manner.

I have the honour to be, &c.
(signed) *H. M. Reid*,
Officiating Collector.

From the Officiating Commissioner of Revenue, 16th Division, to the Board of Revenue, Lower Provinces, Fort William, No. 308, dated Chittagong, 19th April 1856.

Revenue.

Gentlemen,

I HAVE the honour to submit my opinion on the draft of the new Sale Law, and to forward the communications I have received from the collectors of this division on the same subject.

2. Sections X., XI., and XII. treat of the separation of shares, whether held in common tenancy, or consisting of specific portions of land. A recorded proprietor may apply to the collector to pay his share of the Government revenue separately, and a recorded proprietor may, within six weeks of the issue of a notice, make objection to the application. It must be a well-known fact that numerous estates do not bear on the books of the collector anything like all the names of the parties who are the several proprietors. Is it intended that non-recorded, but at the same time well-known proprietors, shall be debarred the benefits of this provision of the law? If such is not the intention, it should be declared that all joint proprietors, be they recorded or not, shall be at liberty to avail themselves of the provisions of Sections X. and XI., and that they shall be at liberty to object to those provisions being made available by any co-proprietor; and the question, whether the party applying, and the party opposing were proprietors or not, might be left to be decided by the collector in the summary inquiry he is directed to make in Section XII.

3. But, if it is the intention of the law to confer the boon of separation only on recorded proprietors, the sections may stand. A correct record of the interest held by every individual owner of land in every estate is so desirable that I should be glad to find that the sections are meant to be restricted to recorded proprietors. If non-registration is attended with such hazard, and the reverse with such advantage, that owners of land will naturally seek for the record of their rights, we shall have in time a public record of owners of estates approaching to correctness and completion.

4. It depends also on what may be the aim of the law whether Section XIV. should or should not be modified. If the object is to force co-proprietors to register their names as such, then the limitation of the right to save the estate from ultimate sale by the payment of the arrear (after the failure of a first sale to realise the amount of the arrear) to recorded proprietors, is calculated greatly to promote the object in view. But, if there is no such object, and if it is right to make such a provision as that contemplated in Section XIV. in favour of proprietors, equal justice to all requires that any joint proprietor, recorded or not, should have it in his power to stay the sale of the entire estate by paying up the arrear due upon a fraction of it.

5. But, be the sections taken in their limited, or more extended sense, they cannot fail in operation to bring an immense immediate and prospective addition of business upon the collector and his establishment. Every partner in an estate will now apply to have his name registered in the collector's register of mutations. Being a recorded proprietor, his next step will be to apply for a separation of his share under Sections X. and XI. In most instances there will be no opposition, and the separation will be effected as a matter of course without much personal trouble to the collector; but the effect of the measure will be important as regards the labour to the collector's office. The revenue-payers will be multiplied in many districts several fold, and in the place of the 40,000 separate accounts now kept with as many, for the most part petty proprietors, the Chittagong collector will have to open separate accounts with perhaps not less than a lac of proprietors, of a still lower order.

6. But the instances of opposition, especially under Section XI., will be by no means rare, and the inquiry, however it may be called, cannot be otherwise than tedious and difficult.

7. My own mind finds no difficulty in imagining a case wherein nothing but a regular partition, made after a survey of the estate, would suffice to enable the collector to decide what amount of revenue ought to be the quota of the share sought to be separated. Cases connected with butwarrahs are, beyond all comparison, the most troublesome of all the duties which now come before a collector, and a great addition of such cases is not to be contemplated upon, without apprehension that the collectors will find themselves unequal to the prompt discharge of their duties.

8. Still the aim of the law is so admirable and the justice of it so undoubted that its provisions, as above discussed, ought to be retained as far as possible. The multiplication of revenue-payers, is what cannot be avoided, and an extra establishment, at a trifling cost, will

meet that difficulty, while the fees for the separation may be expected to yield a considerable sum of revenue at once. Where no opposition is made to a separation, and where no difficulty is experienced by the collector in ascertaining the proper amount of revenue to be put upon the share to be separated, the separation might be allowed to take place in the manner prescribed. But to provide against the collector being overworked by having to investigate difficult cases of disputed rights and interests, he should be allowed to refuse separation and to refer the parties to the Civil Court for the adjustment of their claims. The decision of the suit by the Civil Court might be declared to be summary, subject to modification or alteration by a regular butwarrah whenever that might take place.

9. In the Schedule A and B appended to the Act there is nothing said of the expenses of any local inquiry in connexion with Sections X. XI. and XII. If those sections are to stand and the collector is to be vested with no discretion to refuse an investigation, however complicated, provision ought to be made to authorise the collector to entertain, at the cost of the parties, any establishment he may require in order to effect any necessary local inquiry.

10. Referring to Section XV. it may be asked, is it the object of the Legislature to afford to landholders the means of purchasing the redemption of the land tax? If so, instead of a deposit of a public security bearing interest, the rate of which is subject to fluctuation, a specific sum, in lieu of the tax, should be fixed as the price of redemption, say a sum equal to 20 years' purchase. At this rate there can be little doubt that the privilege would only be rarely taken advantage of, but there may be estates so lightly assessed, or the property involved on the estate may be so valuable, or the condition of the party desiring redemption may be so peculiar, that the purchase amount would be as nothing compared with the benefit to be gained by the possession of a rent-free tenure in perpetuity.

11. If a deposit is observed only as a temporary security against sale, it should be at the option of the party desiring such security, to make it; and if the principle of compounding for the land tax is not one opposed to the stability and well-being of the State, the means of effecting it should be rendered as easy as the nature of the transaction will admit.

12. With a view to the improvement of under-tenures, three separate schemes have been proposed. One scheme is in the law; another has the high support of the present head of the Bengal Government; and the third emanates from Mr. Ricketts. One scheme is to compel the registration of all under-tenures, immediately from the zemindar, after inquiry, and to regard all registered under-tenures as safe for ever. The second scheme is to register all under-tenures, whether created by the zemindar or some inferior holder, the registry of which is desired by the parties themselves, without inquiry, and to hold such tenures safe against all future purchasers of the zemindaree so long as the latter is saleable for its arrears at a price equal to the arrear. Mr. Rickett's scheme is to register, after inquiry, all under-tenures which might be desired to be protected against Government as auction purchaser, and to register, without inquiry, all tenures which only require protection against other auction purchasers.

13. With regard to the first of these schemes, its details are contained in Sections XXXV. to XLI. of the Draft Act. Old talooks must be registered as well as those newly created. With regard to the first class of talooks, the old ones, the course of procedure, as laid down in the second clause of Section XXXVI., is simple, and seems to me a most judicious and advisable measure. If no other talooks are to be registered, those which profess to have been held prior to, or from the time of the perpetual settlement, ought certainly to be registered. On every change of proprietors, this want of a register gives rise to continual frauds, and is the cause of extensive and harassing litigation. Men who have no talookdaree rights assert them against the new purchaser, and if the old proprietor is in league with them, they often succeed in establishing a fraudulent title; and, on the other hand, an auction purchaser knowing the natural disposition of the natives to set up false titles, often disputes a valid one from sheer ignorance of the nature of the title.

14. But, owing to the facilities which exist for creating fictitious and fraudulent tenures, whether new or old, by forged deeds, I would not accord to any under-tenures any exemptions or privileges, such as would effect the rights and interests of Government as auction purchaser of the estate in which such tenure was contained, which are not now attached to such tenures. Talooks held twelve years prior to the revenue settlement are safe by the present law, but talooks created since then, lapse on a sale for arrears of Government revenue; and I would now deal with such, precisely as I would with newly created talooks, of which I am now about to speak.

15. In working the plan proposed for the registration of new talooks, I foresee innumerable difficulties. How is the collector to satisfy himself that a talook has been created in good faith so far as the interests of the Government revenue is concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed upon the parent estate? This couldnot be done without measuring and ascertaining the assets of the entire estate. Where a zemindar has ten villages and pays 1,000 rupees for the whole, by what means shall the collector be able to say that 150 rupees for any one village is a fair proportion of rent, as compared with the whole rent paid for all ten villages? He could only do this by actual survey and measurement of all the villages. Small talooks, then, in large estates are impossible; for who, for a talook of 500 rupees, would consent to pay the cost of measurement of a large estate?

16. The

Appendix, No. 7.

16. The revenue survey will not make it much easier for the collector to decide whether the rent of a particular talook is such as to remove any risk of loss to the public revenue or not. With the area of the parent estate before him, it may still be a difficult question to decide what a fractional part of that estate ought to be assessed at, so as to leave no ground of apprehension that the assessment will always be ample to afford a fair share of the revenue assessed upon the parent estate.

17. But, say that the collector has ascertained the exact state of the talook, and that at a certain sum it will apparently pay its proportion of the public revenue assessed upon the parent estate; is it safe to declare that under no circumstances shall Government as purchaser be competent to alter the rent of any registered talook? Suppose that a zemindar has an estate which he cannot fully cultivate; suppose he draws a line through it, and gives the estate consisting of scattered patches of cultivated and waste in equal portions to himself, in some fictitious name, as two separate talooks. If the revenue was 1,000 rupees, the collector could not object to register each talook at 600 rupees. The registry over, suppose the zemindar offers the ryots of one talook better terms upon the other, and that they all agree to locate themselves upon the other. This done, suppose the zemindar falls into arrears and the Government purchase the zemindarree. It is plain to see that, in place of an estate yielding 1,000 rupees, the Government obtain one which yields only 600, with the chance of getting tenants for the lands thrown out of cultivation by the fraudulent act of the late proprietor.

18. Where such a fraud can be committed, there will not be wanting fitting parties to commit it. It will be as impossible to provide against it, as it is certain that it will be extensively practised; and this is such an insuperable objection to the measure proposed that no counter-advantages can compensate for it.

19. It can never be that, with the means of fraud so easily available, registration of an under-tenure shall be made without the most particular inquiry. I have instanced a case in which all the care and precaution possible would be unavailing to guard the interest of Government. Remove even the risk of loss to the Government revenue, the plan cannot be worked out. The collector would find it quite impossible to make the numerous inquiries previous to registration which the proposed measure, if carried, would require him to do.

20. In some estates the rent of a fractional part, if assessed in proportion to the rent of the parent estate, would be so light that no owner of such would, except in consideration of a large present premium, give away a talook on such an easy jumma. To insist on the rent of a part being equal comparatively to the rent of the whole, is to impose unfair terms on the zemindars; not to insist on it, is to give greater facilities and temptation to commit frauds against the public revenue.

21. Of the scheme contained in the law, I have strong and decided objections. Of the three schemes, that of the Bengal Government appears to me to be the best. Let any and every under-tenure be registered when both the parties concerned in the giving and accepting, agree to desire it. Let those tenures hold good against all auction purchasers of the parent estate, except when Government is the purchaser on the contingency (not likely often to happen) of the estate not being saleable at public auction for an amount equal to the arrear due upon it. Every zemindar will then be at liberty to make what terms he likes with his talookdars, and they will be free to do the same with parties holding from them. The Government revenue will in no way be put to risk or damage, and though the liability of cancelment of tenures is a feature in the Bengal Government scheme, which the scheme in the law obviates, I am still of opinion that the public have now such trust in the fair dealing of the Government, that the purchase of an estate on behalf of Government would not be regarded by the honest talookdars with any dismay. Holding at fair rates, there would be no fear that the talookdar would be disturbed, or subjected to any material increase of assessment, and those who had by artifice held at inadequate rates, are not the men upon whom any sympathy is to be bestowed.

22. By the plan of the Bengal Government any zemindar might, or he might not, create tenures. That talooks will be created in great number there is little doubt. A talook being created, it behoves the State to see that it has really all the protection which the law designs to afford. Registered talookdars should have the privilege of paying their rent direct to the collector; without this, fraudulent zemindars will be always defaulting in order to buy in their estate banamee. Every talookdar will be said to have been in arrears in order that their tenures may be destroyed. It may be that the zemindar will not often succeed in establishing that a talook was in arrears when it was not so, but he will succeed now and then, and success occasionally will amply repay him for having made the attempt on a large scale.

I have, &c.
(signed) *C. Steer*,
Officiating Commissioner of Revenue.

From the Officiating Collector of *Chittagong*, to the Commissioner of Revenue, 16th Division, No. 749, dated 16th April 1856.

Sir,

I HAVE the honour to acknowledge the receipt of your office memorandum, No. 271, dated 13th ultimo, regarding the proposed new sale law.

2. The first ten sections of the new law appear to be very similar, and in many parts identical with the earlier sections of the old law, and do not seem to require any particular remarks. By Sections XI. and XII. the liability of joint proprietors of an undivided estate is limited to their actual interest in the property, and the following section points out the course to be pursued by the collector in separating a share held in common tenancy, and in apportioning to a sharer a specific portion of land. The part proprietor of an estate so often suffers from the indifference, the extravagance, or the malice of his fellow-sharers, that none can doubt the justice of providing him with some more substantial security than he at present enjoys. The new law will undoubtedly confer a boon on a large class of landholders, but it will also have the effect of increasing to a vast extent the expense of collecting the revenue. I can hardly imagine a case in which a joint proprietor will not avail himself of the advantages which the law offers, and there will be scarcely a zillah in Bengal in which the number of mehals upon the towjee will not be speedily trebled. In this district with its 40,000 sudder mehals, the increase will be in no way less remarkable, for the partners of a small Chittagong turruff are just as numerous as the partners of a large zemindaree. The increase, too, will be progressive; for the shares which have been separated will in course of time become themselves the subject of fresh divisions. It may be urged that by affording such facilities for subdividing estates, you will cover the land with petty tenures, and will destroy the extensive properties which now exist. The fact appears to be that these divisions are in existence already, and arise from the laws of inheritance, and the wants of the people. The law will not create, but will perpetuate them, and in the place of vast estates coming into the market, and passing into the hands of a single individual, a wealthy capitalist must hereafter be contented with buying property piecemeal.

3. To Section XI. I have no objection to urge, for Section XIV. will sufficiently repress the endless frauds which would otherwise spring from it. A consideration of section XII. leads me to think that the collector will often find it difficult to arrive at a correct decision by a summary inquiry when the land and jumma is disputed by the other sharers. In my opinion it would be better to refer the parties to the butwarrah laws when the objections do not appear frivolous or groundless. The collector's decision may be wrong, or the applicant may be in possession of more land or (which will be more common) may pay a much less jumma than properly falls to his share. So long as the estate remains in joint proprietorship, the weaker sharers have some hold over the stronger, but when the division takes place, and they become responsible for an undue proportion of the revenue, they may find it difficult to retain their lands. The sale would ruin them beyond hope of redress, and their more fortunate partner might complete the sum of his wrong-doing by becoming the purchaser of their shares under Section XIV. By the butwarrah laws now in force, the divided portion of a mehal, except in cases of fraud, becomes permanently severed from the parent estate, but by the present law, the separated portion is liable to be re-annexed at any time. In some instances, say where lands are exposed to diluvion, it would be hard to sell the property of one sharer because the lands of the other have ceased to exist. The provision should at any rate be modified; but, in my opinion, if a butwarrah is to take place, it should be so conducted as to obviate the necessity for any such stringent provision at all. I would rather in fact that the butwarrah laws should be revised and rendered more manageable than at present, than see the summary investigation proposed in Section XII. adopted.

4. Section XV. permits a recorded proprietor to deposit the amount of his revenue in cash or Company's paper with the collector. The provision is just, and whether it be used as a means of converting estates into freehold tenures or merely be used to avert the consequence of a co-parcener's bad faith or an agent's dishonesty, the result cannot fail to be beneficial.

5. The next section which, in my opinion, requires notice, is XXXIII. It is ruled, as in the present law, that, unless an appeal shall have been preferred to the Commissioner, no case shall lie in the civil court for reversal of the sale. In districts where estates are numerous, mistakes are apt to occur, and it sometimes happens that mehals are sold through an oversight, and the unfortunate proprietor remains unaware of the fact until the period of appeal has gone by. Such a case occurred in this district; payment had been made, but credited to another estate, which bears a somewhat similar name and jumma. The owner could obtain no redress, for the civil court refused to entertain his case, because he had not appealed to the Commissioner.

6. The most startling change to which the proposed law will give rise, concerns the condition and value of intermediate estates. The present law benefits the zemindar at the cost of the talookdar, and with but few exceptions places every tenure at his disposal. The proposed law will cover Bengal with perpetually settled mehals and render the jumma of the talookdar as fixed and immutable as that of the zemindar. The present law contains a reservation in favour of—First, Istumraree tenures which have been held for more than twelve years before the permanent settlement. Secondly, of such as were in existence at the time of

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the settlement; and Thirdly, of certain tenures of more recent creation. The proposed law, in addition to the above, will embrace tenures of whatever description belonging to the third or last mentioned class, and further will outstrip the present law by insisting upon a registration in all cases. As no talook can be deemed valid if unregistered, so no registered talook can be set aside unless it be proved within 60 years that the assessment is detrimental to the Government revenue. Thus, the advantages conferred by the registration will be enormous, and I cannot help fearing that the system will be attended with abuses just as extensive. Under the present law, the zemindar who opposes the talookdar's claim is probably a recent purchaser who has paid a high price for his estate and is anxious to turn it to the utmost advantage. Under the proposed law it will be difficult to prevent the talookdar and the zemindar from colluding, or to prevent the latter from creating fictitious tenures for his own peculiar profit. The collector who adjudicates on the validity of the tenure will (in the case of mehals of the first and second class) be often a passive instrument in the hands of parties between whom there exists no real variance. The title deeds may be forged, but who will prove them forgeries? The jumma may be merely nominal; but without a local inquiry and in the absence of trustworthy records, how will this fact be ascertained?

7. Section XXXVII. refers to talooks of recent creation. I presume that the zemindar is at liberty to create a permanent tenure, but I do not understand upon what terms he is at liberty to settle with his talookdars. A careful and provident man would insist upon a fair assessment; a needy and extravagant one would prefer to part with his lands on an easy jumma in expectation of receiving a larger jumma. To what extent then is the collector's interference required, and what is meant by the terms that the rent shall not be "less than is fully sufficient to afford a fair proportion of the revenue assessed upon the parent estate." The assessment throughout the estate may be light, and if one talook is to be assessed in the same proportion as the others, and not agreeably to the market rates, the zemindarry may be rendered comparatively worthless. If, on the contrary, we insist upon assessing the talook on the severe basis which is current in khass mehals, we may offend both talookdar and zemindar and deprive the latter of a very favourite method of satisfying his necessities. In most cases the mofussil inquiries must be extended to other lands than those of the talook which it is proposed to register. Sometimes it may be necessary to measure the whole zemindarree, and a most expensive agency will be required. The funds of course must be furnished by the parties whom the undertaking will benefit, and it will sometimes be a difficult matter to prevent the registration from becoming too costly a boon for the talookdar to avail himself of it. In districts which have been surveyed or measured, the task will be comparatively easy; but there are parts of Bengal where even the zemindars themselves possess no measurement papers and are utterly ignorant of the real extent and value of their possessions. In such cases the difficulties of the collector, and in fact of all parties concerned, will be increased ten-fold.

8. The introduction of a system of general registration will benefit the proprietors of recently-created under-tenures. To those who hold lands of the first and second class, the new law will, in my opinion, be ruinous. The old law left the zemindar to deal with them. By the new Act they will be put upon their defence at the prosecution of the collector. As in the case of lakherajdars, the *onus probandi* will lie with them; and when any pottah or sunnud is not forthcoming, they may be unable to prove the fact of possession, which perhaps is notorious in their own neighbourhood: such, it will be said, may be the case at present. True; but litigation is not now suddenly forced upon them at the instance of a third party. They are left in undisturbed possession until such time as the zemindar thinks proper to sue them.

9. The beneficial results which are likely to spring from the new Act are obvious; proprietors will be secured from the dishonesty of their agents or co-parceners, and a respectable and influential class of middlemen will be established. But the disadvantages are also to be considered. The zemindaree tenure will become comparatively worthless, and men will prefer vesting their money in under-tenures to purchasing fractional portions of estates and properties which yield little beyond their sudder jumma. The system of registration, with all its admitted advantages, will open the door to incalculable frauds, and tenures will be created regarding which the collector has no real knowledge. Government will in self-defence become an extensive proprietor, and then will follow increased expenses of collection and endless disputes with fraudulent talookdars.

I have, &c.
(signed) *J. S. Spankie*, Officiating Collector.

From the Officiating Deputy Collector of *Bullooah*, to the Commissioner of Revenue, 16th Division, *Chittagong*, No. 479, dated Bullooah, 26th March 1856.

Sir,

I HAVE the honour to acknowledge the receipt of your memorandum, No. 271, of the 13th instant, and its accompaniment from the Board of Revenue, Circular No. 2, of the 26th February 1856, calling for a report on the draft of an Act to amend the law of revenue sales.

2. The current Act I. of 1845 was merely a liberal alteration of Act XII. of 1841, by which the particulars of an estate were more generally made known to the public by a new system of advertisement, and a mitigation of the severity of procedure as to forfeiture in cases of non-payment of the full amount of purchase-money allowed.

3. Act XII. of 1841 was enacted for the benefit of the agricultural community, to abolish the levy of interest, and penalties on arrears, and to systematize and amend the laws for the realisation of revenue.

4. The present obtaining system has, therefore, with slight amendments, been now going on for fourteen years, but during all this time it appears that the law had been objected to and proposals for its amendment have occupied the attention of the best revenue authorities, and have now resulted in the proposal of the Draft Act under review.

5. The preamble of the proposed law embraces all the provisions of the current system, and a great deal more—Six objects are detailed.

First.—The assimilation of zillah Cuttack to the permanently settled districts of Bengal in the matter of sales.

Secondly.—Reasonable security to persons having liens on estates.

Thirdly.—Provision to enable sharers in estates to protect their shares from sale by reason of the default of co-sharers.

Fourthly.—Provision to enable landholders and absentees to guard against accidental sale of their estates through the neglect or fraud of their agents.

Fifthly.—Enforcement of registration of dependent talooks, and security to such tenures when registered.

Sixthly.—Protection to under-tenants from loss by the voidance of their tenures by a sale for the causes of which they are not responsible.

6. Although in the proposed Act much of the spirit, procedure, and wording of Act I. of 1845 is retained, the above objects are new, and, with the exception of the last, untouched by the former Act.

7. The first eight sections of the proposed law differ from the same sections in Act I. of 1845, simply by the alteration as regards zillah Cuttack, a little difference in wording, and the writing of the word gazette, where the former word was gazettes. In this last particular it appears to me that the former reading was preferable, and I see no advantage in substituting the singular for the plural number.

8. I am aware of no reason why the process of direct sale in the event of arrear, which is found in practice to answer in Bengal, should not be extended to Cuttack.

9. In the first part of Section IX. the existing law has been liberally enlarged; the power formerly allowed to zillah judges is extended to the civil courts in general. The last part of the section guards a holder of a lien on an estate against loss by sale of the property.

10. It is not expressed, but it is clear from the wording of the section, that the collector is bound to receive the arrear if tendered before sunset on the latest day of payment, from anyone whomsoever, and to credit it to the estate, and thereby to prevent sale, without enquiry in any way into the rights, motives, or interests which cause the payment of the arrear—all such matters being left to the civil court. Under this ruling, which applies to the current law, a person having only a lien on the estate, was not regarded as a party interested in the estate; and in the case of such a person preventing sale by the payment of the arrear, his payment was regarded as gratuitous. By the proposed law, the amount paid is added to the original lien: and surely there can be no objection to the introduction of this fair and honest dealing.

11. I cordially approve of Section X. as to the separation of shares held in common tenancy, for the purpose therein described; also of Sections XI. XII. XIII. and XIV. as they secure the Government and permit the estate to be saved till any sharers may be able to make a more complete separation of their land and shares by formal butwarrah: these clauses are entirely for the benefit of the zemindars.

12. With reference to clauses XV. and XVI. relative to deposits for the protection of an estate from possible sale, I would remark that the deposits may be made long before sale is probable; in which case attachments by order of the civil courts may be received by the collector and occasion difficulty; the clauses seem, therefore, scarcely complete without some reference to the above contingency.

13. Under the present state of the law I know nothing preventing the deposit of a sum with the collector to guard against a possible sale, and I believe the deposit has actually been made.

14. Clauses XVII. and XVIII. merely re-enact the current law.

15. Section XXVIII. relates to the application of the surplus money; it is the same as the rule in the current law, and coupled with it is a difficulty. Very many estates come to

the hammer because they are held by numerous partners in joint tenancy, and these cannot agree among themselves; the separate shares have not been recorded in the collectorate; often the several joint partners refuse to sign a joint receipt. Immediately after sale, precepts from the civil courts constantly desire the collector to attach certain amounts of the surplus proceeds in the name of some of the joint-holders, whose proportion of share is unknown to the collector; and thus sharers, whose rights are not affected by the orders of the civil courts, find it difficult to obtain their shares of the surplus sale money. In such cases as this, the course to be pursued by the collector, when a portion of the body of joint proprietors refuse to sign a joint receipt, should be defined. At present the law seems to rule that, unless the whole body of joint proprietors give the receipt, the collector should not pay the money—a practice attended with manifest hardship and requiring provision by law in this place.

16. The proposed law next requires the compulsory registration of under-tenures, and it carefully distinguishes old tenures and those created before settlement from new; part of Section XXXV. and the whole of XXXVI. relate to the registration of old tenures.

17. It is generally known that the present state of the law of registration is very defective, and often useless. In my own limited practice, in all difficult occasions I have found it totally so. The advantages of registration offered in Act I. of 1845 have scarcely ever been attended to. When a lease is granted, it is generally registered without inquiry by the register of deeds, but very seldom has the required notice been made to the collector—a neglect that would be fatal to a lessee if he tried at law to protect his lease against the interference of a purchaser at a sale under Act I. of 1845.

18. I am fully aware of all the advantages of registration. I would support any law which would make the complete registration of all old tenures general, but am averse to making such registration compulsory.

19. In the yet unsold estates, where registration of such old tenures has been neglected, the requisite proof for registration might be difficult to obtain, and the inquiry demands much of the collector's attention; and should registration not be granted, the tenure becomes reduced to a state similar to that of a ryot's.

20. I think any difficulty on this matter would be better left to the management of the purchaser and the occupant, and uninterfered with by the collector.

21. I would leave such old tenures as encumbrances on the estate exactly as they are now left by clauses one and two of Section XXVI. of Act I. of 1845, allowing the tenants liberty to register their holdings before the collector, if they choose, as security to themselves, but not visiting the neglect or inability to do so by any probable future penalty.

22. To the general provisions for causing the registration of tenures created subsequent to settlement, I am very willing to agree; but think that, if it was made compulsory only to register tenures created less than 12 years before the passing of the present Act, leaving tenures of older creation to benefit or not by registration, as may seem best to their owners, it would be found more to the advantage of the landed interests.

23. I think the words "fix a day" in the second clause of Section XXXVI. may be omitted with convenience to collectors, and no injury to the other parties concerned.

24. In the additional rules connected with registration under Section XXXVII. it is proposed that the collector shall commence measurement immediately. I am of opinion that it would be better to wait till the answer of the proprietor of the estate as to his objections to registration are received, and if necessary, decided by the collector.

25. With the above remarks I beg to express my opinion as to the rules for the registration of under-tenures, and proceed to notice the effect to be given to such registered tenures in the event of sale, not with any presumption that my remarks on such an important and disputed topic will be of any value, but simply because I have been ordered to report on the subject.

26. The effect of the proposed law is to cause all under-tenures to be registered, and all registered tenures to be considered as valid and permanent hereditary holdings with reference to the law of sale for arrears of revenue, and to be held good as such against all purchasers, the Government not excepted.

27. Another scheme, backed also by most experienced revenue authority, has been mooted—it is this, that all under-tenures created since the settlement, at whatever rates, couuld hold good so long as the parent estate should prove saleable for an amount equal to any arrear of revenue that might accrue upon it; and that whenever this should cease to be the case, the parent estate should be forfeited to Government, who should make a re-settlement of the whole of it.

28. I am rather averse to compel registration, and I deprecate the interference of Government between the zemindars and the under-tenantry, when that interference can be avoided.

29. The law proposes to give a permanence and a value to under-tenures, which were created by the zemindars, who at the time of creation did not consider the introduction of such proposed legislation, and only received the consideration from the accepting tenants naturally under the knowledge that the zemindars could cause a benamee sale of the whole property, and subsequently increase or alter any of the rents. It is fair to conclude that, had it been known that the value and stability of these tenures would have been increased, the salamee would have been greater at the time of their creation. I do not think the law is equally fair to the zemindar as to the tenant; it places the zemindar in the position of a mere collector of rents; it diminishes his authority and interest in the estate; it tends, in my opinion, to deteriorate the value of zemindaree property throughout the country.

30. I see no reason why these under-tenures should necessarily be interfered with by Government, or why Government should necessarily be bound by them. I will put a case. A zemindar, urged by feelings of gratitude for services done by some one to him, say, for an intricate and important lawsuit concerning possession of land, carefully conducted by a vakeel through all the perils of the Mofussil and Sudder Courts to a final satisfactory conclusion, wishes to reward that vakeel by the present of an extensive hereditary farm at a mere nominal rent, not one-tenth of its actual value in the market—what right have the Government to step in to interfere, and say, We object to this farm? it is injurious to the property? it does not yield a fair rent? Again, the estate is primarily answerable to the Government for the Sudder jumma. Should the estate be sold and fall to the Government, Government would be injured by any law binding it to support such a lease as the above. I think, therefore, with Mr. Ricketts, that there might be incorporated into this law two species of registered engagements; the one distinctly unconnected with the Government, binding against any one purchasing the position and rights of the zemindars, but not binding against the Government in the case of a lapse of the estate; and another species binding on the zemindar or any one succeeding to his place, and also on the Government, and depending for its sanction on full inquiry by the revenue authorities, subject to all descriptions of appeal from the collector to the Board of Revenue, and thence to the Civil Court.

31. Government does not enter on the possession of a forfeited estate with the ultimate aims of an ordinary purchaser; and where an estate becomes the property of Government, it is not the collector's sole object to get the highest possible jumma from each tenant. On a change of proprietors, the Government is preferred by the under-tenants to a new zemindar; the settlement proceedings are conducted under experienced supervision; no extortion or harshness is permitted, no salamee is demanded, and all proceedings are open to the appeal of higher revenue authorities. The present rules for settlement, contained in the settlement manual, direct a most careful adjustment of the rights of every occupant of an estate, and allow of the confirmation of every fair tenure found to be in existence at the time of the commencement of the Government ownership. I believe that, under the existing settlement procedure, each talookdar, putneedar, durputneedar, seputneedar, howladar, &c. would fare far better than they do on the advent of a new zemindar under the current law; and that the state of under-tenures with reference to a purchase by Government, is in reality, if not in actual law, much better than in the case of purchase by private individuals.

32. On the purchase of a considerable estate by an individual, the process of obtaining possession commences with its accompaniments of affray, murder, and paying, and is followed by the sequel of increased jummas and salamee. None of these objectionable occurrences take place in the event of an estate being forfeited to the Government: and I submit that in the settlement of such an estate, the Government ought to, and would give security to all actual tenants occupying under honest titles at fair rates.

33. It has been argued that, unless registration be binding against the Government, a tenant who has improved his land will pay a tax on his improvements, whilst an idle tenant, who has allowed his tenure to deteriorate, will receive a premium for his negligence. I cannot see the force of this argument; under the spirit of the present settlement rules, the tenant possessing a property brought up to a mature state of cultivation, would have the same secured to him after inquiry, subject to no further alteration of jumma; whereas in the case of the tenure where there is evident room for improvement, the rent would be fixed only for a short period, at the expiration of which, fresh inquiry, with an increased demand of rent, would ensue. Indeed, I think registration of tenures, of which the greater part consist of waste lands, which are widely spread over Bengal, with a view to the determination of a future fixed rent, unadvisable, if not impracticable; it is making an obligation binding for ever on the calculation of a future contingency.

34. I do not think there is any very great necessity to guard against fraud, where the Government is not concerned; this proposed law is not enacted for the security of intending purchasers. A purchaser is bound to satisfy himself of the value of the thing he wishes to buy; if he covets an unembarrassed estate, and buys a bag of lawsuits instead, he has himself to thank for this caveat emptor.

35. On the whole, then, I prefer the scheme, which allows of the registration and formation of tenures without the interference of the Government authorities to that in the proposed law now under review, which demands speedy registration of all under-tenures; and would render them permanently effective against the Government.

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36. The whole of the proposed law is a philanthropic endeavour for the general benefit of the landed and agricultural interests; its aim must be universally approved, it is only in particulars that I have ventured to differ. I have expressed all that I could find to object to, and have no further comments to offer.

I have, &c.
(signed) *F. B. Simson*,
Officiating Deputy Collector.

FROM the Commissioner, Cuttack Division, to the Secretary to the Board of Revenue, Lower Provinces, No. 563, Pooree, dated the 24th April 1856.

Sir,

Revenue.

I HAVE the honour to acknowledge the receipt of your letter, No. 2 of the 26th February last, on the subject of a Bill for the Improvement of the Revenue Sale Law, which is now before the Legislative Council. In reply I beg to forward copies of the communications on the subject, which I have received from the Collectors of the Division, and at the same time to submit the following observations:—

2. The first provision of the proposed Sale Law relates to the repeal of Regulation X. of 1818, and the discontinuance of the present practice of obtaining the previous sanction of the Board of Revenue to sales of estates in the province of Cuttack. The honourable Mover of the Bill appears from his speech, as reported in the published proceedings of the Legislative Council, to be under the impression that the dustuck system still prevails in this province. That, however, is a mistake. The dustuck system was abolished on the 1st of January 1854, and the provisions of Regulation X. of 1818 have ceased to be enforced since the same period. The revenue is now collected in Cuttack, as elsewhere, in the regulation districts of Bengal, by a system of payments on fixed dates enforced, in the event of failure, by the sale of the tenure on which they are assessed. The success of this measure has been most complete. The Government revenue is collected with even greater punctuality than before. Sales, as the marginal statement will show, have actually diminished in number, and the landholders have repeatedly described to me the annoyance and oppression to which they were subjected under the old system, when a whole army of peons was periodically let loose upon them, and expressed their lively satisfaction with the present arrangements. The only inconveniences attendant on the new system, arise from the necessity of submitting voluminous lotbundees periodically to the Board, the preparation of which imposes a serious task on the collector's establishment, and the obligation of obtaining the Board's previous sanction to the sales, which frequently involves their postponement in consequence of the Board's answer not being received in sufficient time to admit of the publication of the notices which the law requires. These inconveniences will be removed by the provision in the Bill to which I have referred, and both this and the proposed repeal of Regulation X. of 1818 have therefore my hearty concurrence.

DISTRICT.	Annual average Number of Sales from	
	1844 to 1853.	1854 to 1855.
Cuttack - - -	12	2½
Pooree - - -	1¾	1
Balasore - -	1½	2

3. The next improvement of importance upon the present sale law, which the Bill contemplates, consists in allowing the amount of the deposit made by a mortgagee, in order to protect his lien on the estate of a defaulter, to be added to the amount of the original lien, thus affording the mortgagee the security of the estate itself in lieu of the mere right of recovering his deposit by an action against the proprietor, which is his only remedy under the present law. To this I can conceive no objection. It appears but equitable that the deposit which saves the estate from sale should be secured by a lien on the property in behalf of which it has been made.

4. The Collector of Cuttack (Mr. Shore) urges some objections to the provisions in Sections X. XI. XII. XIII. and XIV. of the Bill, whereby shareholders of joint undivided estates will be enabled to pay the revenue on their shares separately, and so to secure them from sale, except in the double contingency of one or more of the other shares failing, when exposed to auction, to realise the full amount of the arrears due upon them, and of these arrears not being made good within ten days of the sale by the solvent shareholders. He considers that these provisions will encourage the sub-division of property and the multiplication of petty estates, which is already, he thinks, a serious and growing evil in this country; and he would therefore limit their operation, as was done by the new rescinded Regulation VI. of 1807, to those shares the Sudder jumma of which should not be less than 500 rupees.

5. If I thought that the clauses of the Bill which I have quoted in the latest Section were likely to lead, as Mr. Shore supposes, to the further sub-division of petty estates, I should join with him in deprecating their introduction; for extreme sub-division, it is obvious, by creating a host of pauper proprietors, must materially increase the risk and labour of collecting the revenue, while its effect upon the people themselves and upon the prosperity of the country is likely, in my opinion, to be prejudicial.

6. I believe, however, that the operation of these clauses will in all probability be the very

reverse of that anticipated by Mr. Shore. I think that the remedy which they provide against the fraud or negligence of co-sharers, will, in a great measure, put a stop to the partition of estates; that it will give the shareholders of joint undivided estates confidence and security in that description of property, and will render a formal partition of the estate under the butwarrah law unnecessary for their protection. Many persons appear to suppose that there is little difference between an actual partition, as effected under the provisions of Regulation XIX. of 1814, and the power which this Bill allows to sharers in undivided estates of protecting their own shares by the separate payment of their share of the revenue of the estate; but there cannot be a greater mistake. In the first place, according to the plan proposed, the whole estate continues answerable for the revenue assessed upon any portion of it; and in the next, the estate has the benefit of the joint funds of a number of individuals employing, generally speaking, a single manager, and retains an area sufficiently large to encourage the application of capital, instead of being split up, as it would be if partitioned into a variety of little unremunerative patches, each with a separate management, and dependent for improvement on the resources of a single individual. I consider the principle involved in these clauses to be worthy of adoption, and the details appear to me to be unobjectionable.

7. To the permission given to landholders, by Sections XV. and XVI., to secure their estates from sale, by depositing with the collector money or Government securities equal in amount to the Sudder jumma of their property, I can conceive no objection. It has been said that this permission may lead to the redemption or condemnation of the land tax; but, as Mr. Shore has pointed out, this cannot be until the interest on the public debt equals the land tax, and Government renounce the power of paying off the loans which they contract.

8. The provisions of Section XXXV. and the following sections, for the better security of under-tenures, have not been made applicable to this province. It has probably been thought that, as the recent settlement fixed and placed upon record the rights and interests of all persons at that time connected with the soil, and the under-tenures created since the settlement cannot be very numerous, it was unnecessary to disturb the existing arrangement. The number of under-tenures, however, which have been created since the settlement, either through the sale or abandonment of the old tenures, or the cultivation of lands formerly waste, is very considerable; and if it is advisable that the under-tenures in Bengal should be secured against forfeiture by the means proposed in this Bill, there seems no good reason why the measure should not be extended to Cuttack. Under-tenures created since the settlement, as it is, are limited in duration to the term of the zemindar's engagement with Government;* but this would form no objection, for the Bill deals, as I understand it, with the limited as well as the perpetual leases of Bengal, and does not propose to extend such leases beyond the periods for which they were originally granted.

9. But I do not recommend that the provisions of the sections which I have quoted above should be extended to Cuttack. They would, from all I can learn, be very unpopular here. Nor am I disposed to think that they should be introduced into the revenue law of Bengal. Let us first examine the proposed measure under the supposition that it will be generally taken advantage of, that in the course of the next three years every talookdar, putneedar, moostajur, and ryot will have registered his tenure and secured himself against any enhancement of his rent during the period of his lease. The state of things, then, will be very much the same as that which has prevailed for the last 13 years in this province. Now, what has been the effect here? The answer, I fear, must be, that while the ryots and under-tenants are very much better secured against the exactions of their landlords than they were before, the agricultural improvement, which is stated to be one of the objects of the Bill, has not been attained; and this, for the very obvious reason that all incentive to the investment of capital in the improvement of the land has been removed from the only classes who have capital to invest. As matters stand, the sole person connected with the land who can benefit from its improvement, is the lowest on the scale, the ryot. The zemindar, the surburakar, mokuddum, and other intermediate holders, are no further interested than that any positive deterioration of the land would affect the ryot's power of payment, and any improvement would facilitate it. The motive, however, which these considerations supply is not sufficiently strong to induce these parties to lay out anything upon land which will return no direct interest on the money expended; natives have not sufficient foresight for a mere precautionary outlay. Indeed, in such a state of things as prevails here, the ryot's ruin is often the gain of the zemindar or the middleman. An inundation, which destroys all the hopes of the ryot, is not unfrequently a source of positive good to the zemindar, as it enables him to oust his under-tenants, and re-settle his estate free of all incumbrances.

10. Where this cannot be done, the zemindar sinks into the mere holder of a superiority, and has little more interest in the land than the owner of a jointure has in the estate on which it is secured. Talk to such a man of improving his estate by irrigation, by roads, by the introduction of new products, and his natural answer is, "What benefit shall I derive from these measures? The rents of my under-tenants are fixed, and if I trebled the resources of my estate, I should not be richer by a single pice." This is no imaginary reply, but an answer very similar to many which I have often heard since I came to this province. The case is precisely the same with the middleman. He, too, has nothing to look to beyond the rents of his under-tenants. The only hope of these men, apart from the cultivation of waste land, is the breaking up of the settlement tenures, and to this object many

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* Act XVI. of 1842.

of the landholders and middlemen here devote themselves with great perseverance. According to the degree in which they succeed in this, they enhance the value of their property; and it is matter of notoriety that, in consequence of the increased facilities which a Government sale gives for testing and annulling under-tenures, a very much higher price is obtained for estates which are brought to the hammer than could be procured for them by private sale.

11. Throughout the discussions which have taken place on this Bill, the interests of the zemindars, in whom, by the theory of the perpetual settlement, the property of the soil is vested, appear to me to have been wholly overlooked. The question of fixity of tenure has been argued as if it affected the under-tenants and the Government alone. But it seems certain that the adoption either of Mr. Grant's measure or of that advocated by the Government of Bengal, would have the effect of depreciating the value of zemindary property to a very serious extent. At present, when a zemindary is sold by the collector, it passes into the hands of the purchasers free for the most part of encumbrances, and capable, under judicious management, of improvement to a greater or less extent, according to the circumstances of the case. It commands, therefore, a price calculated not merely according to its present rental, but according to the extent to which there is reason to expect that rental may be raised. But introduce fixity of tenure, and the zemindary is worth merely the market value of the existing rental, minus the cost and risk of collection. It cannot be doubted, I think, that, supposing registration to be generally adopted by under-tenants, there would be a very considerable difference between the value of zemindaries prior and subsequent to the act of registration; and, if this be so, it follows that, to the extent of this difference, the present Bill is a measure of confiscation.

12. It seems to be thought that the capital of the country is chiefly in the hands of the talookdars, and that agricultural improvement is to be looked for rather from them than from the zemindars. This idea has probably originated in the fact that indigo and sugar-planters seldom hold zemindaries, preferring to rent merely those talooks or villages which they require for the products they cultivate. As a general rule I believe it is unfounded. I cannot believe, for instance, that the improvement of the district of Burdwan would not proceed much more rapidly if the leases were under the control of the Rajah, than it is likely to do while the estate is sub-divided among putneedars who enjoy fixity of tenure, and who alone therefore have an interest in improving its resources. And even with regard to indigo and sugar-planters, it must be recollected that it is not in their character of middlemen that they expend their capital, but in that of manufacturers and contractors; their advances are frequently made to the ryots of estates in which they hold no tenures.

13. But suppose that the assumption to which I have alluded is correct, and that the improvement of the position of under-tenants in Bengal is so important as to justify the sacrifice of the zemindar's rights, is it quite certain that the most wealthy and most improving class of under-tenants, namely, the indigo planters, will really benefit to the extent that is anticipated either by Mr. Grant's measure (always supposing it to work) or by that of the Bengal Government, which, it would seem, they prefer. There is no doubt that their position as talookdars would be somewhat more secure than it is now, although I must say their entire disregard of the protection afforded to those who register under Clause 5, Section XXVI., of the present law, does not evidence much sense of insecurity; but would it be quite agreeable to them that the ryots and under-tenants in their talooks should be rendered equally secure? An indigo planter does not look for remuneration to the rent of the land he occupies. His object in taking a talook is to acquire a power over the ryots, which may enable him to induce them to cultivate indigo for his manufactory; and if the ryots could secure themselves by registry or otherwise against enhancement of rent, it is not unlikely that they might prove their independence by declining to sow indigo, and tendering their rent of a rupee or two per beegah instead. I do not think that indigo planters would wish to see the ryots as independent of them as they themselves are (or would be under this Bill) of the zemindar.

14. Then, let us consider what would be the effect upon the Government revenue of a general registration and fixity of under-tenures; and, first, with regard to the ante-settlement tenures, to which, I may observe, I have not alluded in the foregoing remarks. In cases where these tenures have formed the subject of suits or proceedings in the Civil or Revenue Courts, and the fact of their being ante-settlement tenures, bearing a certain fixed jumma, has already been judicially declared or otherwise clearly ascertained, there could of course be no objection to their registration in the mode proposed by the Bill. The holders of these tenures would acquire, from registration, a fresh security. Intending purchasers would more easily ascertain the assets or incumbrances of the estate they wished to purchase, and no injury would be inflicted on any one. But, according to the process which the Bill contemplates, there appears to me to be nothing to prevent an unprincipled zemindar from creating fictitious tenures of this description. The notice is to be served on the zemindar himself; no one, in all probability, will have any interest in objecting to the registry. Collectors in Bengal have no mofussil establishment, and the omlah, through whom they make their inquiries, may be bribed. It is not impossible, therefore, that the Collector may be deceived. The tenure is entered in the registry, and 10 or 15 years afterwards, when the zemindar allows his estate to go to the hammer, and settles down on his registered talook, containing the best lands in the estate, held at a pepper-corn rent, it will be almost impossible for any Government officer to prove the fraud. When we recollect

with what profusion fictitious lakheraj tenures were created at the time of the permanent settlement, and how difficult it was found to detect them some 30 or 40 years later, we shall not suppose this fraud to be so improbable as at first sight it might appear. But the registration of *bonâ fide* ante-settlement tenures is an object so very desirable, and so perfectly unobjectionable, that I should be sorry it was abandoned from fear of fraud. What I wish is simply that fraud should be better guarded against than it seems to me to be in the present Bill, and to ensure this, I think the Collector ought to be vested with judicial powers in respect to the inquiries authorised in the 26th Section, and directed in all doubtful cases to examine parties upon oath. Fraud under the present Bill would, if detected, go unpunished. If the measure I recommend be adopted, the fear of incurring the penalties of perjury will render the attempt a very uncommon one.

15. I fear that not even this precaution would suffice to secure the Government revenue in the case of the registration of tenures created since the settlement, as provided for in the 37th section of the Bill. It appears to be forgotten that collectors are sometimes not only fallible but careless, and that survey ameens are very generally corrupt. If the proposed Act becomes popular, and registration general, it is not too much to suppose that, in a district containing 2,000 mehals, there will be 20,000 applications for registry and survey within the first year. What time or attention is it possible for the collector or any dozen of collectors to bestow upon these cases? and whence are competent and trustworthy ameens to be procured in sufficient numbers? Allowing that this difficulty may be overcome, still the collector must trust in a great measure to the report and proceedings of the ameen who conducts the survey. Even if the Revenue survey has passed over the district, it will be of little use to him, as the Bengal survey is not, like that of Cuttack and the North Western Provinces, a detailed survey, descriptive of each man's holding, but a mere demarcation of the boundaries of estates and villages. When the tenures, therefore, are created by the zemindar himself, for his own benefit, or that of his family, there would be little chance of discovering any fraud which might be committed, or of proving it, when discovered, to be a fraud, and not a blunder of the collectors. It must always be remembered, in considering this question, that, under the novel provisions of the present Bill, the land ceases to be hypothecated for the security of the Government revenue. For this security is substituted another and a very inferior one, namely, the zemindar's interest in the land; and if, through the carelessness of the collector or the corruption of the ameen, the zemindar is allowed to divest himself of more than a certain proportion of this interest, the revenue which the Government have hitherto derived from the estate is irretrievably gone. The Bill provides no mode of recovering it. This being the case, and the land being unfortunately the chief source we have to look to for our revenue in this country, it appears to me that we should be very unwise to place it in the power either of accident or fraud to alienate it. It may be and is, I admit, unlikely that frauds of the nature to which I have alluded could be perpetrated successfully to any great extent; but it is sufficient for my argument that they may be perpetrated, and that the revenue may suffer. I consider that we should be wrong to endanger it in any degree whatsoever.

16. I have argued the question up to this point, on the assumption that the provisions of the 37th section of the Bill will be generally put in force by the classes for whose benefit they are intended, and I have expressed an opinion that they would in that case be injurious to the zemindars, dangerous to the Government revenue, and of little benefit to any class except the mere terra tenant. But I believe that in fact the scheme will not work, that it is too complicated, involves too much risk of litigation, and will consequently only be taken advantage of by a very few individuals. This has already been stated publicly by a leading indigo planter, and is the opinion of all the most intelligent persons with whom I have conversed here. The measure contemplated in the Bill, too, will affect, it must be observed, only one class of under-tenants, those who hold immediately from the zemindars. This is obviously not intended, but it is so. It is not only by Government sales that the position of the durputneedar, the seputneedar, or the ryot, is endangered by Section XI. Regulation VIII. of 1819; if the putneedar fails to pay his rent to the zemindar, and the tenure is brought to sale, all leases granted by the putneedar are *ipso facto* voided. The decisions noted in the margin,* (though in my opinion erroneous), seem to show that the Sudder Court consider an ordinary sale for arrears of rent under Act VIII. of 1835, to be as fatal to under-tenures as a sale under Act I. of 1845 or VIII. of 1819. The under-tenant of a talookdar has, therefore, no inducement to go to the trouble and expense of the registration which will only protect him under one contingency, and that generally speaking not the most likely one.

* Chowdry Mohadeb Das,
versus
Chowdry Narain Mohapatur.
Cuttack Zillah Decisions,
3d April 1850.
Sudder Decisions, 13th August 1850.
Cuttack Zillah Decisions, 28th January 1851.

17. If the principle embodied in the 37th section of the Bill were a good one, these difficulties might no doubt be got over. Registration might be made to protect the tenant not only against sales for arrears of revenue, but sales for arrears of rent also. But, if the Legislature are of opinion that it is desirable to have all under-tenures registered and their rents fixed in perpetuity, or at least for the term of existing leases, it appears to me that they ought not to throw the burden of such a great measure on the people, the majority of whom, it is evident, are either too poor, too ignorant, or too timid to avail themselves of it. They should proceed, as the Government of 1836, which was impressed with this view, did in Cuttack, enact that the rights and interests of every ryot and under-tenant throughout the country should be authoritatively fixed and recorded. The work unquestion-

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ably would be a vast one, but it was effectually done in the three districts of this division in the course of seven years, and by multiplying the establishment employed here, by the number of districts in Bengal, it could of course be accomplished there in the same space of time.

18. For the reasons I have already given, however, I object altogether to the principle embodied in the 37th Section of the Bill, and in matters of detail, if I were compelled to choose between them, I should prefer the Government scheme, which has the merit of being more complete, inasmuch as it secures every under-tenure up to a certain point without any action on the part of the tenants, is perfectly simple and inexpensive in its operation, and does not endanger the Government Revenue. But on two points I have the same objection to the Government plan as to that of the Bill; it affects, equally with the latter, the value of zemindary property, and it tends to produce a general fixity of tenure; add to which the absence of registration in the Government scheme would inevitably give rise to many frauds. Every zemindar who fell into difficulties, would, as a matter of course, break up the best portion of his estate into under-tenures at low rates for himself and his family, and the purchaser at the Government sale would find that, instead of a productive estate, he had merely purchased a right to certain rents, little more than sufficient to enable him to pay the Government revenue without actual loss.

19. I am altogether opposed to any measure which would have the effect of fixing in perpetuity a large proportion of the under-tenures of Bengal. If, as has been said, two-thirds of the land in Bengal is held under a talookdaree tenure, it should be remembered that the zemindaree tenure extends over the whole country, and that the talookdaree tenure is subordinate to it. I look for the improvement of the country, not only to the Talookdars, but to the growing intelligence of the landlords, and the better class of middlemen, and should be sorry to see their influence over the lower class of under-tenants extinguished, or to think that it would henceforth be impossible for a capitalist to obtain an unencumbered estate of any size in Bengal; on the other hand, I am fully sensible of the difficulties under which indigo planters and other mercantile men, who find it necessary to take talooks for the better prosecution of their business, labour from the present state of the law, and I think it very desirable that they should be relieved as far as possible. The problem, then, which we have to solve, is how to afford relief to an important class of middlemen, without interfering with the rights of others, endangering the Government Revenue, or erecting a barrier to improvement in the shape of a class of pauper landholders.

20. It seems to me that this will be best accomplished by a modification of the plan of the Bengal Government. The objections to that plan are, as I have already stated, that by excluding registration and the consent of the zemindar, it lowers the auction value of the zemindaree without affording the zemindar any compensation for the injury done him; and that it renders it impossible for a purchaser at an auction sale to know what he is buying. In order to obviate these objections and afford security to under-tenants, I would recommend that it should be competent to all under-tenants, in conjunction with their zemindars, or in the case of ante-settlement tenure or tenures, the rents of which have been permanently fixed by law, or by the decision of any competent Court, then in conjunction with the holders of such tenures, to present a petition to the collector, setting forth all the particulars regarding their tenure which the present law requires in such cases, and praying that the tenure should be secured by registration against all auction purchasers except the Government; that the collector should, upon receipt of such petition, issue notices in all the usual places and in the usual manner, making known the substance of the petition, and in the event of no objection being made by any third party, that he should register the tenure in a book to be kept for the purpose against the name of the zemindary in which it might be situated; that this registry should always be open to the inspection of intending purchasers at auction sales; and that all tenures so registered, and no other, should stand good against the auction purchaser—provided that, if the estate should not command at auction a price equal to its arrears of revenue, it should be in the power of the collector, after giving one month's notice to the tenants, to expose it to auction a second time, and in the event of the bids still failing to cover the arrear to purchase it on account of Government, and to annul all leases and tenures whatsoever. Should any objection be made to the registry by a third party, the collector might be directed to suspend his registration of the tenure for the space of six weeks from the date on which such objection might be filed; and the moonsiff or the judge might be authorized, on application being made to them within these six weeks, to grant a provisional injunction against the registry and to decide in a summary manner upon the applicant's objections, confirming or withdrawing the injunction as he considered the objections to be valid or otherwise.

21. Under this plan the zemindar would have an opportunity of securing his own interests and obtaining compensation for the diminution which registration would cause in the auction value of his estate; while he would be able to place an effectual check on the inconvenient multiplication of under-tenures at fixed rents. The Government revenue could not suffer by any possibility. The auction purchaser, by turning to the registry, would ascertain the exact amount of encumbrances on the estate he was about to purchase, and the honest under-tenant who did not object to pay a fair value to his zemindar for an improved title, would be able to secure himself against all future interference by as simple a process as it is possible to conceive. Even the interposition of Government for the protection of its own interests

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nterests would not take place without time being afforded to the tenant to prevent the forfeiture of his tenure by the payment of the arrears due, a disbursement for the recovery of which the present Bill provides an ample security; and the inquiry into the objections of third parties whose interests may be involved would be tried at once in the Civil Court, without the necessity of any preliminary and probably inconclusive investigation by the revenue authorities. It is quite certain that there is a large class of talookdars and other middlemen who will not be pleased with this scheme, for the simple reason that they wish to secure all the advantages which the registration I propose would hold out, without paying for them and without consulting the interests or convenience of their landlords; but the Legislature will not, I apprehend, concern itself about the wishes of this or that party, but having determined what is most equitable and advantageous for all, will do that regardless of clamour.

22. The 4th clause of Section XXVI., Act I. of 1845, enacts, that lands held under *bonâ fide* leases at fair rents for the erection of dwelling houses or manufactories, gardens, tanks, &c., shall be excepted from the operation of the rule in that section, whereby under-tenures are voided on the occurrence of an auction sale of the parent estate for arrears of revenue. Clause 4, Section XXXV., of the present Bill introduces very important modifications into this clause. All lands occupied for the purposes specified in the present law are by these modifications excepted, whether held under *bonâ fide* leases and at fair rents or not, and the exception is extended to plantations which are not mentioned in the existing Act. It seems to me that, if this clause passes as it stands, a large proportion of the land in Bengal will speedily be held rent free. A man may cover two-thirds of his zemindaree with plantations of date, cocoa, betel, coffee, tea, or cotton, and give it rent free or at a pepper-corn rent to his son: when the estate is sold, the auction purchasers will be unable to touch this land, and the whole taxation will fall on the rice lands or on wet spots where plantations of the valuable products I have mentioned cannot be created. I do not understand the principle upon which it is sought to render leases of such lands less open to question than others. I can conceive no reason why a man should not be required to pay a fair rental for land occupied by a manufactory, a garden, or a dwelling house, quite as much as for the miserable patch of rice swamp which adjoins them. I should say, "protect the owners of these places by all means against summary ejectment or harassing interference on the part of each new landlord, but do not throw away the revenue of the most valuable lands in the country, or compel the auction purchaser to forego the fair rental which they better than many other estates can afford to pay."

23. There is only one other point in the Bill which it will be necessary to notice. Mr. Schalch, the Officiating Collector of Balasore, suggests that the Collector should be authorised, when necessary, to put the auction purchaser in possession of the estate to which he has certified his title. It certainly is a defect in the law that, if the defaulting proprietor retains forcible possession, the magistrate is bound, under Act IV. of 1840, to support him, and the purchaser is obliged to carry his certificate of title in the Civil Court. I would amend the 27th section of the Bill, by adding the words, "and in the event of any person other than the purchaser retaining forcible possession of the estate or share of an estate sold, the purchaser may make affidavit before any magistrate, of his inability to obtain possession without the aid of the police, and the magistrate on being satisfied by the production of the Collector's certificate that the legal title to the estate is vested in the applicant, shall thereupon afford him the aid of such police force as may be necessary, and shall place him in possession, anything in Act IV. of 1840 to the contrary notwithstanding: and if any person resists the execution of an order for possession of an estate or share of an estate given under this section, or refuses obedience thereto, he shall be liable, on conviction before a magistrate, to the same penalties as if he had resisted the execution of an order given under Act IV. of 1840."

I have, &c.
(signed) *E. A. Samuells,*
Commissioner.

From the Officiating Collector of Balasore, to the Commissioner of Revenue for the Division of Cuttack, No. —, dated the 28th March 1856.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 272, of the 10th instant, calling for a report on the draft Bill to improve the law relative to sales of land for arrears of revenue.

2. Having acquired my experience as a Collector chiefly in a district which has been temporarily settled under Regulation VII. of 1822, I feel great diffidence in expressing an opinion on an Act which will have effect through the permanently settled districts. In the one, the records of the late settlement afford great facilities for the introduction of many of the contemplated changes which, for want of such data, must, in the others, be effected at a greater cost and with a greater risk of endangering the Government revenue.

3. On the six objects of the Act as set forth in the preamble, I need say little.

Appendix, No. 7.

4. The first, the discontinuance of the previous sanction of the Board of Revenue to sales for arrears of revenue in this province is necessitated by the alteration in the mode of insuring the payment of the revenue by the abolition of the dustuck system, recourse being now had solely to the sales of the estates of defaulters. This alteration has been in work for the last three years and has answered admirably. The revenue is now paid up with greater regularity, and without the harassing measures previously adopted, which invariably proved useless, the arrears being seldom paid up except under the threat of sale. During this period the number of estates sold has averaged annually two, whereas for ten years previously, when the dustuck system was enforced, the sales amounted to one and half per annum. The permanent determination of the dates of latest payment will cause no injury or hardship, but on the contrary tend to remove uncertainty and to save much trouble in the offices

5. The remaining provisions of the Act provide for the better protection of parties holding a lien on an estate of co-partners, and of absentees, and for the absolute security and registration of dependent talooks and under-tenures. The necessity for these improvements, and the vast benefits that must result from the greater security thus afforded to the employment of capital on land in India, are too well known to require elucidation or support from any arguments I might advance.

6. The present draft Bill appears fairly to grapple with, and overcome the difficulty, which has hitherto been supposed to exist, of securing the Government demand while carrying out these improvements.

7. The rules laid down in Sections X. to XIV., for enabling co-partners to separate their shares, appear to me to afford every requisite facility for their protection, as well as for that of the Government demand.

8. The summary inquiries prescribed in Section XII., as also in Sections XXXVI. and XXXVII., should, I think, be judicial, and the Collector be empowered to administer oaths, and compel the attendance of witnesses and the production of accounts, &c. As the inquiry is summary, and subject to the revision of the civil court, an appeal to the superior revenue authorities is not, in my opinion, advisable. Such an appeal, if not final, but increases the expense and delays the final decision, which rests with the civil court, to whom any party dissatisfied with the Collector's decision should at once be forced to have recourse.

9. Section XV. appears to confine the privilege therein given for the protection of an estate, by a deposit to cover an arrear that may accrue on it to the whole estate, and not to shares of an estate for which a separate account may have been opened under Sections X. to XIII. I see no reason why this concession should not be extended to co-partners of such a share, any deposit made by them, however, not to protect the share if the whole estate become liable to sale under the provisions of Section XIV.

10. The Collector is empowered to give, on the completion of the sale, under the provisions of the 27th section of the Bill, a certificate to the purchaser showing his title to his purchase, but is nowhere authorised to put him in possession. With such power I think he should be vested; for it is unjust to enact, as by Section XXXII., that the purchaser shall become liable for the Government revenue from the latest date of payment, without enabling him at once, and without reference to any other court, to enter on possession. The defaulter has certainly lost all right to the estate from the latest date of payment; yet, as the Collector is not empowered to dispossess him, he may retain possession and oppose by force the purchaser. Should the latter also have recourse to violence, the magistrate may bring the case into his court under Section II. of Act IV. of 1840, and being restricted to the investigation of the fact of actual possession, must uphold the defaulter; for, however valid the certificate may be as a proof of the purchaser's title, it is none of his possession. The purchaser must, therefore, have recourse to the civil court, and be obliged to pay the Government revenue pending the decision of the suit, without obtaining his rents from the cultivators.

11. The Collector should, therefore, I consider, be vested with the power of placing the purchaser of an estate, or of a share of an estate for which a separate account has been opened, in possession of his purchase. If the purchase be that of merely the right and interest in an estate sold for arrears other than its own, or for demands realisable as arrears of revenue, the Collector would of course not give possession, but only a certificate of title.

12. The registration of all under-tenures granted previous to the settlement should, as enacted, be rendered compulsory to obtain their exemption under Section XXXV., for the exemption from all future questioning and dispute is cheaply acquired at the cost and trouble of registry. The period allowed for registration might be extended to five years at least, from the promulgation of the Act; for however widely it may be circulated, a considerable time must elapse before its provisions can be generally known to the many ignorant and indigent holders of such tenures.

13. The charges and cost incurred in the survey and local inquiry required to be made regarding under-tenures granted subsequent to the settlement would, I fear, be considerable, and in some cases deprive under-tenants of the benefit resulting from the proposed registration. I would therefore allow the under-tenant to register his lease with a view either to permanent or provisional protection. To obtain the former he must follow the course pre-

scribed in Section XXXVII., and incur the expense of the survey, and the other necessary local inquiries; but to insure the latter, no survey need be made, and the under-tenure might be protected from annulment unless the estate under these conditions failed to sell for the amount of arrear due on it, in which case alone the provisionary registered under-tenure should be liable to be voided.

14. I would, for the reasons stated in paragraph 8, allow no appeal to the superior revenue authorities from the Collector's decision regarding registration, unless on the grounds of "the good faith in which a tenure may have been created so far as the interest of Government revenue is concerned," or "the adequacy of the rent for the security of that revenue," these being points on which no appeal can be made to the civil court.

15. It has been objected that the protection here given is afforded only to tenures granted by the proprietors, and not to tenures created by talookdars or others holding under the proprietor. The wording of the draft does not appear to me to warrant that restriction, nor can I suppose such to be its intention; for the reasons on which is founded the introduction of a system of registration and of protection for under-tenures created by the proprietors, apply equally to under-tenures granted by talookdars and other under-tenants, which it may be within their competency to create. There would be no greater difficulty in registering the latter than the former description of tenures.

16. The protection granted in Section XXXVIII. to talookdaree tenures pending the summary investigation of the Collector in case of the sale of the parent estate for arrears of revenue, should, I think, be allowed only where the price offered for the estate, when sold with the reservation of the under-tenure, covers the amount of arrears; should the price bid be less, the estate should be disposed of unencumbered by the act of the defaulter, otherwise there may be no means of recovering the Government revenue until the survey or other inquiries have been completed, which may extend over a considerable period.

17. The protection above proposed to be given to under-tenures in permanently settled estates, does not appear to be conceded to similar holdings in estates not permanently settled. The papers and records of the late settlement would easily enable the Collector at once to ascertain if the rent fixed on an under-tenure were equivalent to the Mofussil jumma assessed on the lands included in it at the settlement. A local inquiry would show whether the zemindars were fraudulently endeavouring to separate the non-productive and better cultivated lands from those which might have deteriorated since the late settlement.

18. Provided, then, it were proved that the rent fixed on the under-tenure was equivalent to the assessment on the lands composing it at the late settlement, and that the Mofussil jumma of the remainder of the estate was not less than fixed at the settlement, I see no reason why the under-tenure should not be protected from annulment up to the expiry of the current settlement. The Government revenue could suffer no risk, and the purchaser, in case of the estate being sold, would still be in receipt of at least the same amount as that on which the Sudder jumma he is called on to pay was calculated; all leases would of course terminate on the expiry of the current settlement.

19. Section XLIII. of the proposed Bill differs from the present Act in the important omission of the word "unrecorded;" hence any unrecorded proprietor, even if the heir of a deceased recorded proprietor, re-purchasing his own share or the whole estate, might acquire the estate free from all incumbrances except those specified in Section XXXV. This must be, I imagine, an oversight.

20. The Act should, I think, distinctly state from what party the expense of issuing the sale and other notices specified in Sections IV. V. VI. VII. XXIII. XXVII. XXXI. are recoverable; for although Circular Order, Sudder Board Revenue, sale series, paragraph 25, directs the defaulter and the parties interested to be charged with the expense of serving certain of these notices, it may be doubted whether this order is legal, and it would be better that this point should be clearly settled by the law itself.

I have, &c.
(signed) *H. V. Schalch*, Officiating Collector.

From the Collector of Cuttack, C. D., to the Commissioner of Revenue, Cuttack, No. 206, dated the 25th March 1856.

Sir,

I have the honour to acknowledge the receipt of your letter, No. 486, with the enclosed Circular from the Sudder Board of Revenue, requiring my opinion on the new Draft Act, published in the "Gazette" of the 6th February, relating to the sale of land for arrears of revenue.

Dated 10th March 1856.

2. It is so long since I have been employed in the Revenue branch of the service, and so very recently that I have re-entered it, that I cannot but feel considerable diffidence in submitting the following remarks. I have had no opportunity of testing my views by the practical experience afforded in a Collector's office, and they relate to a subject on which hitherto I have not been able to bestow very particular attention.

3. With the exception of those parts of the proposed law, which prescribe the manner in which sales are to be held, and of Sections XV.–XVII., which enable absentee proprietors to protect their estates by the deposit of Government securities, the general tendency, I may almost say object of the Regulation, is to encourage the sub-division of property. So far as this result is brought about by the creation of permanent under-tenures, I do not think there is any particular ground for objection. But the multiplication of estates by partition, is, I think, a serious and growing evil, one which it may eventually be found necessary to check by legislative interference. The present law, however (*vide* Sections X. and XI.), has a directly opposite tendency, prevents the possibility of the mischief resulting from a joint proprietary, correcting itself by forming a sale of the whole property, and at the same time introduces a new class of shareholders, whose registration will burden the district towjee as much as if they had become separate proprietors by regular process of butwarrah. The only countervailing advantage, so far as Government interests are concerned, is that, with so easy and cheap a way open to them of protecting their shares from the consequences of their co-parcener's default, shareholders' will be less ready to resort to the tedious and expensive process of partition under Regulation XIX. of 1814. And in consideration of their having this protection, I would go further, and recommend the re-enactment of some such wholesome provision as that of Regulation VI. of 1807, placing some limit to the extent to which an estate may be split up and received.

4. The provisions of the 35th and following sections appear to me open to some objection. I should, in the first place, greatly hesitate before applying them to districts which have not been subjected to the revenue survey operations. The expense of even an approximate value of the entire estate will often be enormous, and the difficulty that will frequently exist in ascertaining whether the tenure under inquiry is assessed with its fair share of the jumma, will be the greatest exactly where accuracy is of the most consequence, that is, where the object is to defraud the Government.

5. On the other hand, the preliminary inquiries will often be so tedious and costly, as either to deter under-tenants from seeking the protection which it is the object of these provisions to grant them, or to involve, and consequently depreciate, the property in the process. But I allow that these objections, affecting the interests of the Government on the one hand, and of the under-tenants on the other, will not apply in all cases where the Sudder jumma of the estate is so light as to allow of a considerable margin, and to make very minute inquiries unnecessary, where the estate is not a large one, and the under-tenure embraces a large portion of it; or where it is so compact and well defined, that the survey records will suffice without additional measurements. In these cases registration may be granted without danger to the Government revenue, or much expense and harassment to the parties seeking it.

6. To meet less favourable cases, I would suggest that it be optional with applicants whether to register under the present provisions, by which they will obtain complete protection, at some expense, or under those formerly proposed, which would grant them protection without any expense at all, but subject to revocation in the event of the parent estate being bought in by Government. It is further, I think, worth consideration whether, instead of the provision attached to Section XXXV., the benefit of a registration similar to that of under-tenants might not be extended to resident hereditary cultivators. In this case no very extensive or minute inquiry will be necessary; the village rates can always be ascertained with sufficient accuracy to protect the Government revenue; and it is hardly necessary to dwell on the beneficial results that will ensue from thus improving the condition of so important a section of the population.

7. The scheme for protecting absentee proprietors or others, by allowing a deposit of Government paper to protect the estate from sale, appears to me altogether unexceptionable. It has been said that this plan involves nothing less than a redemption of the land tax; but it is manifest that before it can have this effect, it is necessary, first, that the interest on public debt should equal the amount of the land tax; secondly, that it should be out of the power of the zemindar to reclaim his deposit; and thirdly, that the Government should pledge themselves not to pay off the loan.

I have, &c.
(signed) *R. N. Shore,*
Collector.

Revenue.

From the Officiating Commissioner of the Nuddea Division to the Officiating Secretary to the Board of Revenue, Lower Provinces, Fort William, No. 4, dated Allipore, 2 May 1856.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 37, dated 8th April 1856, drawing my immediate attention to your previous call on my predecessor, dated the 26th February, for his opinion and that of the Collectors in this division on the provisions of the draft of the new Sale Law.

2. I have

2. I have found so much to do since joining this office, that I have been unable to give the requisite attention to this important draft, or to find time to record in proper form conclusions to which I had come before leaving the Board. As it is, I am without complete returns from the Collectors, none of whom are as yet of a year's standing, and from whose letters, herewith submitted in original, the Board will not, I fear, obtain much assistance.

3. I will however first make my own remarks on the draft, or rather on those sections of it which contain new provisions, and which, omitting Section III., in which the only new feature is that it includes Cuttack and Sections IX. and XXIX., which contain obvious improvements on the old law, are Sections X. to XVI. and XXXV. to XLI.

4. Sections X. to XIV., which provide for the Collectors opening a separate account with the proprietor of each separate share in an estate, whether holding all the lands in joint tenancy or in possession of distinct lands, will, I feel sure, be received as a great boon by landholders generally, and the precautions taken to secure Government in Section XIV. are, I think, quite sufficient.

5. But I think it will be necessary to empower a Collector to close a separate account as well as to open one. The applications under Sections X. and XI. need not always be given in at the same time, and the result of the summary inquiry to be under Section XII. in a subsequent application may show the Collector that the demand entered in his accounts against a shareholder whose application had been previously granted was incorrect.

6. Thus A applies for a separate account to be opened for a four annas share of an estate in which B has an interest, consisting of a single village for which he has paid a jumma of 140 rupees, the sudder jumma of the estate being 600. The Collector grants A's application and enters a demand of 150 rupees against his share: subsequently B comes forward and applies to have an account opened with him for his village on 140 rupees. The joint tenant proprietors object that the jumma specified by B is insufficient; a summary inquiry follows, and the Collector decides on admitting the application. Either the deficient 10 rupees of sudder jumma must be entered against the shareholders who have not applied for a separate account, or a proportion of it at least must be added to the demand against A. The concluding provisions of Sections X. and XI. respectively seem to give a character of finality however to the Collector's sanction of an application.

7. Attempts will be made, beyond doubt, to get the question of adequacy of jumma on a specific portion of an estate settled summarily under Section XII., in preference to putting in motion the dilatory machinery of the butwarrah law. If the Collector find that the alleged specific jumma is that which has been recognised by the other sharers, he cannot reject the application for a separate account, however inconsistent this may be with his orders on previous applications.

8. I would therefore suggest that provision be made for a Collector's closing a separate account, or for his revising the demand which he had previously entered against a sharer on his sanctioning its being opened, from which date, as the draft stands, the separate liabilities of the sharer for the demand entered against him commence.

9. On Sections XV. and XVI. I have already recorded an opinion while secretary to the Board; indeed, if I mistake not, my note on Rajah Pertabchunder Sing's petition, or rather on Mr. Plowden's remarks on it, was what led to the issue of the Board's circular order on this subject, and to their subsequent address to Government, which has caused the introduction into the draft of these provisions for deposit. Very few landholders will have the means of availing themselves of the privilege which these provisions confer, and it seems unnecessary, therefore, to argue on the financial results which would follow were deposits to be made by landholders generally or by a large proportion of them.

10. By far the most important sections of the draft are those which provide for and regulate the registration of old and new talookdaree tenures. I wish I could add that, in my opinion, these provisions and regulations will, in practice be operative.

11. I have but one remark to make on Section XXXV., and that is, that arrears of rent are not paid so punctually in the Mofussil as to render it at all probable that any of the tenures on an estate sold for arrears will have fulfilled the last of the conditions specified in Clauses 1, 2, and 3 of the section. The latest days now fixed by the Board happen to fall about a fortnight after the expiration of the Bengali month, for which the rent of all tenures must have been paid in, or they will be liable to fall. This condition will be the cause of constant harassment to the under-tenants, and the question suggests itself, why should the purchaser profit by a default on the part of the under-tenant? For this default, if it occurred, was an injury to the previous owner.

12. The tenures forming the 1st and 2d classes of exceptions, for the registration of which in the Collector's office Section XXXVI. provides, have been hitherto registered only in the office of the zemindar. The under-tenants will hail with gratitude the public record of their rights which is now to be preserved. I have no objections to offer to any of the provisions of this section.

13. It is in carrying out the additional rules, prescribed in the following section for the registration of tenures for the third class of exceptions, that I apprehend difficulty. All new tenures are to be entered for registry within one month of their creation, and the

applications are to specify the fullest particulars. The widest discretion is then left to the Collector, and the result will depend altogether on the way in which he exercises it, and on the view which he may take of the grave responsibility which this section imposes on him. He is to take whatever measures he may deem necessary to test the correctness of the particulars handed in to him, and to satisfy himself that the assets of the tenure are proportionate to the rent payable by the holder, and that this rent is proportionate to the revenue for which the estate is liable. To satisfy himself of this, he must go through all the details of a settlement of the estate, and it must depend on the size and character of the latter, whether this process can be gone through at a cost which the applicant for registry would care to pay.

14. If the Collector is easily satisfied, I find no remedy for an unwise exercise of his discretion other than that of recourse to the Civil Court within 60 years, with the object of showing that registration was obtained by fraud. It would be very difficult indeed, and the difficulty would increase every year of the 60 years term, for Government to prove such a plea to the satisfaction of the Court.

15. Where the under-tenure was the putnee of a fractional share of a joint estate, the Collector's inquiry would have to embrace the whole estate. Again, in the 24 Pergunnahs there are cases in which estates, forming separate numbers on the Towjee, are so mixed up one with the other that such an inquiry would have to embrace three or four estates.

16. It may be said that the law is not intended for exceptional cases such as those I have alluded to. No doubt if these provisions work well, so as to admit of compliance without risk to Government, with even a moiety of the applications for registry which will be given in, the country will have made a great stride. I have no information, it will be seen, from any Collectors on the general character of the new tenures occurring in their districts. I can only therefore argue on their character, such as I have found it in the tenures of the 24 pergunnahs, where they are for the most part putnees and farms of entire interests in estates, joint or otherwise. These estates will be more often found composed of plots of land in villages distant from one another, than of single villages or of compact groups of villages.

17. In my opinion, a clear understanding of what is the prevalent character of the under-tenures most requiring protection, and precise information as to how this character varies in different districts, is absolutely necessary before such decisive and final provisions as these can safely be made law; and, pending the collection of such information, I should prefer seeing the proposals of the Bengal Government introduced into this draft.

Mr. Fowle's report reached me too late to admit of a second reference to him.

18. I shall conclude with a few words on the Collector's returns. Mr. Mangles has begged to be excused giving any opinion, on the plea of his inexperience in revenue matters. Mr. F. Lushington, Mr. Pigou, and Mr. Fowle, have altogether missed the points on which their opinions were required. On pointing this out to the two former gentlemen, and on requesting them to ascertain the views of their deputy collectors on the probable working of Sections XXXVI. and XXXVII. I obtained the further returns, which are also submitted. In the case of Moorshedabad, the second return is not a more satisfactory one than the first. In the case of the 24 pergunnahs, I have thus obtained the opinions of three deputy collectors of experience. That of Seebchunder Deb should, I think, carry weight with it.

19. This officer's view of Section XXXVII. is nearly the same as my own. He brings forward, moreover, objections even to Section XXXVI., being of opinion, apparently, that here also the interests of Government require to be watched. I know the theeka tenure to which he alludes, and am aware that the transfers of lands in the manner described have taken place; but I do not think that the tenure prevails to such an extent in any one estate as to cause apprehension that the revenue may suffer by the admission of applications for registration. There is Section XLI. to enable Government to cancel a registration fraudulently effected if the means of proving fraud are available.

20. It might happen, possibly, that the owner of an estate might create a new tenure on terms exceedingly favourable to himself, and succeed in imposing on a careless and superficial collector and in registering it as an old tenure. It might happen that this incumbrance would affect the capabilities of the estate to bear its public assessment; but the case is an extreme one, and the fraud would be detected whenever the estate came to sale.

21. Referring to paragraph 6 of the letter of the collector of the 24 pergunnahs, in which he enumerates three classes of tenures, I may explain, though it is perhaps hardly necessary, that the khoorpahdar is nothing more than a sub-tenant at will, a labourer in fact, on terms agreed to yearly between himself and the real under-tenant. The chuckdar is the local term for a jungleboorее tenant, and the theekadar is the mocummeedar described in the deputy collector's letter.

22. Mr. F. Lushington, of Nuddea, has sent in the best report, though it gives no information on the character of the under-tenures. He thinks the difficulties which oppose registration under Sections XXXVI. and XXXVII. will render the provisions of both inoperative.

23. I wish I could have added the testimony of some of the landholders, mooktars, and

others who attend my office; but very few of them, I find, are aware that any change in the sale law is impending. Measures should, I think, be taken to ensure a wider circulation of these draft Acts in the Mofussil.

I have, &c.
(signed) *A. Grote*,
Officiating Commissioner.

From the Officiating Collector of Nuddea to the Commissioner of Revenue for the Nuddea Division, Allipore, No. 302, dated Nuddea, 3d April 1856.

Sir.

I HAVE the honour of acknowledging the receipt of your letter, No. 111, dated 12th ultimo, calling upon me to submit through you to the Board, my opinion on the new sale law, published in the "Calcutta Gazette" of 2d of February.

2. This law contains three important provisions not included in Act I. of 1845.

I. The separation of shares whether held in common tenancy or consisting of specific portions.

II. Protection of estates by deposits.

III. The registration of old and new talookdaree tenures.

3. I propose to confine my observations to those sections which contain the provisions relating to these three heads.

4. Sections X. and XI., on the separation of shares.—I beg leave to observe that, if the practice of registering the names of all the proprietors in every estate was general, the separation of shares might be easily effected; but this is not the case, and if no objections, except on the part of recorded proprietors, are admissible, serious injustice might be committed.

5. The answer to this would be, that it is the intention of Government to enforce the registration of the names of all the shareholders in every estate. If such be the case, it would be unjust to enforce the provisions of this Act until ample time had been afforded to all parties to comply with the requisitions of the Legislature.

6. Sections XV. and XVI. The advantages set forth in these sections are so obvious and so free from any objection, that it does not appear to me necessary to say more than to express my entire approval of them.

7. Section XXXV. The first point to which I would draw attention in this section is, that after the registration has been completed, the estate, whether of the 1st, 2d, or 3d description, may be lost in the event of any arrear of rent being due on the latest day of payment of revenue as fixed under Sections III. and IV.

8. These arrears might be occasioned by an error in the calculation, or they might consist of a very trifling balance, and cases may occur in which it will be difficult for the holder of a tenure to prove that he was not in arrears; at all events he may be involved in litigation.

9. Section XXXVI. Registration of old talookdaree tenures. The proprietors of these old tenures are already protected by law, and though the advantages they would obtain on registration would be large and complete compared with what they now possess, I doubt whether many would be prepared to undertake the labour and expense it would necessarily involve.

10. They would almost invariably have to encounter the opposition of the owner of the parent estate, and if they failed in satisfactorily establishing their claims, the zemindar would avail himself of all the information thus gained, and ultimately the holders of these tenures would have to defend their rights in the civil courts.

11. Section XXXVI. Secondly: Great difficulty would attend the carrying out of this part of the section. "Summary investigation," and "reasonable time," are expressions which depend for their force on the mind of the Collector. There will be perpetual appeals on these points to the Commissioner, who will also have his view of "summary" and "reasonable;" and thus it will be scarcely possible for an owner of a tenure applying for registration and meeting with opposition, to look forward with any reasonable hope to its accomplishment.

12. Section XXXVII. The tenures to be registered under this section are those of the third class described in Section XXXV. I do not understand it to include secondary and lower classes of under-tenures, such as durputnee and seeputneedar.

13. If the difficulties of registration under the preceding section are almost overwhelming, I would submit that, under this section, they are so greatly increased as to render it impracticable.

14. Under this section a Collector would have to measure the entire area of the parent estate, inquire into the capability of the soil, the condition of the ryot, the respective positions of the several villages, and ascertain the assets of the whole before he could determine whether the tenure was created in good faith as far as concerned the interests of the Government revenue. Besides this, there would be objections on the part of shareholders, recorded or otherwise, mortgagees, and parties having a reversionary interest in the estate opposing the registration and adding to its difficulties. It would not be an exaggeration to add, that in a very short time, the Collector would have the whole of his district under Regulation VII. of 1822 and IX. of 1825.

15. Few, if any, holders of new talookdaree tenures and farms would be prepared to undertake the cost and submit to the vexation, trouble and delay imposed on them, and then, after all, the application might be refused, or the provisional registration reversed after further reference or delay by order of the civil court.

16. It will be urged, perhaps, in reply to this, that, in districts where the survey has been completed, registration would be comparatively easy. On this point I would remark, that each towjee estate has been demarcated and surveyed without reference to the under-tenures comprised in them, or the quality and capabilities of the soil. It will therefore be impossible for the collector to determine, on reference to the survey records, whether a tenure has been created in good faith as regards the Government, or the adequacy of the rent for the security of the Government revenue.

17. I am thoroughly prepared to admit the great advantages of registration, but if it is to be of any great service, it must be simple and compulsory. The latter, for the obvious reason that no great improvement of this nature can be carried out in this country, unless the people in the first instance are forced to adopt it.

18. On these grounds, I would recommend that every zemindar within six months from the passing of this Act should be compelled, under penalty, to furnish a list descriptive of all the tenures in his estate with jumma wassil bakie duly attested. This would at once place the Collector in full possession of every particular regarding the assets of every estate, and check any opposition the zemindar might hereafter be disposed to show by either denying the existence of any under-tenure, or disputing its jumma or that of any jotedar.

19. On the receipt of this list, the Collector should immediately serve notices on the several classes of proprietors described in Clauses 1, 2, and 3, Section XXXV., and enforce the registration of their tenures by subjecting them to the penalty of non-exemption in the event of the sale of the parent estate for arrears of revenue, and also denying them the privilege of suing their under-tenants under the summary suit laws.

20. The inquiry previous to registration to be limited to the simple fact of possession.

21. No injury would accrue to the zemindar or the holders of under-tenures by this speedy disposal of the question: it would greatly simplify the Collector's proceedings; while the Civil Courts would be open for the adjudication of any fraud which might be alleged to have been committed.

22. The object of registration is, as I understand, to protect the holders of all under-tenures given in good faith and at a fair jumma, and at the same time to defend the interests of the Government. Now, it appears to me that the interests of the latter are sufficiently protected by Sections XIV. and XLI.; they will not, therefore, be jeopardised by the summary inquiry I would establish, whilst protection to the former would be given at once without much trouble and at little cost beyond the registration fees.

I have, &c.
(signed) *E. H. Lushington,*
Officiating Collector.

From the Officiating Collector of Twenty-four Pergunnahs, to the Commissioner of the Nuddea Division, No. 171, dated Allipore, 4th April 1856.

Sir,

No. 395. I have the honour to acknowledge the receipt of your Office Memorandum, No. 111, dated 12th March 1856, and in reply to forward the accompanying report on the Bill for the improvement of the law relating to sales of land for arrears of revenue, published in the "Gazette" of 30th January.

2. With reference to this subject, it will not be inopportune to advert briefly to the salient points of the past and present sale laws, to sketch their history, and how they worked, as well as to consider the one proposed to be passed and the causes that have given rise to its contemplated enactment. The first intimation that lands of proprietors would be sold for arrears of revenue, was promulgated in Section VII. of Regulation I. of 1793.

3. From that year, then, to the present time, there have been as it were three periods during which the sale laws of this country have been administered without any material intermediate alterations. The first may be said to have lasted from the enactment of Regulation XIV. of 1793 to the introduction of Regulation XI. of 1822, which latter swayed the decisions of the courts until the passing of Act XII. of 1841, which, with slight alterations introduced by Act I. of 1845, has continued in full force up to the present time.

4. Up to the passing of Regulation XIV. of 1793, the arrears of Government revenue could only be collected through the intervention of courts of justice. Subsequently Collectors were empowered, after issue of due notice, to seize the defaulter, to attach his zemindary, and, at the expiration of a year, to sell his estate, should the arrears still remain unliquidated; in the following year, Regulation III. forbad the proprietors of land, except in special cases, to be confined for arrears of revenue, and vested the authority for the sale of defaulter's estate in the Board of Revenue, thus obviating the many suits for false imprisonment that used to be instituted against the officers of Government.

5. In the years 1795, 1796, 1799, 1801, 1803, and 1814, Regulations connected with the sale of estates for arrears of Government revenue were enacted; but they affected more the practice in the different zillahs of the country, rendering them conformable to the local customs of the inhabitants, rather than affecting the principle of the law of sale, which continued the same in theory until 1822.

Thus Regulation VI. of 1795 affected solely the province of Benares.

Regulation V. of 1796 directed the amount of land to be sold, to be proportionate to the arrears demanded, and authorised the sale of estates in separate lots. Sections XXVIII. and XXIX. of Regulation VII. of 1799 pointed out the application of existing sale laws as far as regarded the allotment of estates proposed to be sold.

Regulation I. of 1801 was the result of indiscriminate attachment of lands by Collectors, and was enacted to remedy this, as well as to provide against unnecessary delays in the recovery of Government revenue; also it prohibited, except under orders of the Governor-General in Council, the sale of a fractional portion of an estate.

Regulation XXVI. of 1803 affected solely the North Western Provinces, as likewise Regulation XXVII. of the same year.

Regulation XVIII. of 1814 abrogated the necessity of the sanction of the Governor-General in Council for the sale of lands for arrears of revenue, and authorised the Collector of the district to advertise the lands of a defaulter for sale without the permission of the Board of Revenue, although their sanction was to be granted before any actual sale took place; and from this date to 1822 absolutely no change occurred in the sale laws in force.

6. In 1822, it being apparent that the existing Regulations did not define, with sufficient precision and accuracy, the conditions that rendered valid the sale held under them, or were sufficiently specific of the rights and interests of purchasers of estates sold in accordance with their provisions, and as likewise much unnecessary hardship and injury had occurred to zemindars who had been deceived or plundered by their own agents, almost the whole of the preceding Regulations were annulled and repealed, and the process of sales of estates for arrears of revenue was greatly simplified by the promulgation of Regulation XI. of 1822.

7. By this Act the issue of any dustuck, tullub-chittee, or process of demand to defaulters of revenue was forbidden, different rules and restrictions with respect to the separate classes of estates were framed, and Collectors were empowered to sell estates under the authority of the Board of Revenue.

8. This Regulation remained unmodified till the passing of Act VII. of 1830, when Collectors were authorised to sell estates without any previous reference to the Board of Revenue; and it underwent a further modification by the promulgation of Act XX. of 1836, which so far controverted one of the provisions of Regulation XI. of 1822, as to permit the sale of an estate under butwarrah for arrears of revenue, before the expiration of the year within which the arrears became due.

9. This system continued in force until the Legislature introduced Act XII. of 1841, whereby, with the exception of Sections XXXVI. and XXXVIII. of Regulation XI. of 1822, all other Regulations connected with sales of land previously passed, were rescinded. The most important points connected with the change being the abolition of the levy of interest, and penalty upon arrears of revenue, the fixing of periodical dates for final payments of revenue and sales of estates, the increase of rate of deposit of earnest money from 15 to 25 per cent., and the abolition of the system of issuing advertisements of the sale of estates.

10. The above law was again modified by the passing of Act I. of 1845, which rescinded the third and following sections thereof; by the new law, the extra indulgence of permitting the original defaulter to make good his arrears within three days of a purchaser failing to pay, within the prescribed law of 30 days, the amount of purchase-money of any estate

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estate sold for arrears, was granted; but, with this exception, and that of rendering the law inapplicable to the town of Calcutta, or the settlement of Singapore, Penang, and Malacca, there does not appear any material difference between this law, which remains in force up to this date, and the provisions of Act XII. of 1841.

11. On comparing the draft of the law in contemplation with Act I. of 1845, the analysis noted in the margin* exhibits in what sections the new matter is embodied, and how far the provisions of the present law will be continued by those of the proposed new Act. The new matter is contained in Sections X. XI. XII. XIII. XIV. XV. XVI. XXIX. XXXVI. XXXVII. XXXVIII. XXXIX. XL. XLI. XLVII. XLVIII. XLIX. L. and LI. Before, however, touching upon the same, I desire to record two suggestions that present themselves; the first refers to the 6th Clause of Section V. of the proposed new Act as well as of Act I. of 1845, wherein it appears to me that a more detailed description and specification of what is intended by the words "or other demands not being land revenue" is as desirable, as it would prove advantageous in the prevention of subsequent disputes; for instance, in the case of embezzlement of public money by a nazir or treasurer or other officer in charge of Government funds, and of the delinquent's property placed in security, being ordered to be sold, I presume the sale would be effected under this clause and section; but I think it would be preferable to have the examples specified.

12. The second suggestion is, that, whereas in Section VI. of the contemplated Act the notification desired to be issued therein is to be published in the "Official Gazette" (singular), so, in Section VI. of Act I. of 1845, the notice is desired to be published in the "Official Gazettes" (plural); if, therefore, there are two "Official Gazettes" which is the one intended to be specified by Section VI. of the new Act? or would the publication of the notification in either be considered sufficient to ensure the validity of the sale? It appears to me that this point requires definition; under the present law, the notices are published in the English "Government Gazette" published in Calcutta, and likewise in the Bengalee "Government Gazette" issued from Serampore, so that no room is left for doubt on this score.

13. I now come to the consideration of the new matter promulgated by the law under review: it may be classed under three heads.

First.—The opening of accounts for separate shareholders.

Secondly.—The sanction to the depositing of Company's paper for the saving of an estate from sale.

Thirdly.—The registration of shikmee tenures, so that their integrity be not affected by the sale of the estate to which they belong.

14. Sections X. to XIV. inclusive treat on the proposition of a recorded sharer of a joint estate held in common tenancy, being permitted to pay his share of Government revenue separately; and direct that, if an application to that effect be, after summary investigation by the Collector, approved of by that officer, that then, after certain preliminary measures, a separate account is to be opened with such a shareholder. The justice of this measure no one can contradict; but, if it became law, the Government must be prepared to sanction applications for the increase of native establishments, as the great amount of work entailed thereby could not possibly be disposed of without such an increase; but it doubtless entirely neutralises the effect of the chicanery and deceptions that have often transpired connected with sales, where a rich shareholder, in order to become possessed of the share of a poorer one, has suffered his own share to fall in arrears, and when the estate has been put up for sale, has purchased the whole benamee. With reference also to the scale of fees as entered in Schedule B., it would be as well to define whether or not the Schedule in question was intended to interfere with such portions of Regulation XV. of 1797, as define the amount of fees to be levied for the registration of transfers.

15. Sections

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* Sections II., III., IV., V., VI., VII., VIII., IX., of proposed law agree with corresponding ones of Act No. I. of 1845.

Containing new Matter.—X., XI, XII., XIII., XIV., XV., XVI., XXIX., XXXVI., XXXVII., XXXVIII., XXXIX., XL., XLI., XLVII., XLVIII., XLIX., L., and LI.

Sections of the proposed Law which correspond with Sections of Act I. of 1845:

New law.	Act I. of 1845.	New law.	Act I. of 1845.	New law.	Act I. of 1845.
XVII.	X.	XXV.	XVIII.	XXXIV.	XXV.
XVIII.	XI.	XXVI.	XIX.	XXXV.	XXVI. with slight alterations.
XIX.	XII.	XXVII.	XX.	XLII.	XXVII.
XX.	XIII.	XXVIII.		„	XXVIII.
XXI.	XIV.	XXX.	XXI.	XLIII.	XXIX.
XXII.	XV.	XXXI.	XXII.	XLIV.	XXX.
XXIII.	XVI.	XXXII.	XXIII.	XLV.	XXXI.
XXIV	XVII.	XXXIII.	XXIV.	XLVI.	XXXII.

15. Sections XV. and XVI. accord permission for the deposit of Company's paper for the protection of estates from sale, a measure which must obtain the sanction and approbation of all revenue officers, as protecting zemindars from the misconduct of their agents and enabling them to travel on pilgrimages, or with any other object, without finding themselves sold out on their return, in consequence of a few rupees not having been paid into the collectorate treasury on their account.

16. Although Section XXIV. of the proposed new Act is, in every respect, to the same effect as Section XVII. of Act I. of 1845, I consider it proper, whilst new measures are in contemplation, to call your attention to the fact, that although by the section in question the Commissioner is empowered to cancel any sale, and award compensation and moderate damages to the purchaser, yet no provision is made for the payment of any such damage or compensation, as justice may require, when a sale has been unwarrantably effected through any mistake of the omlah of the office.

17. Sections XXXV., XXXVI., XXXVII., and XLII. treat of the rights of the purchaser of an estate under the new law to receive it free from all incumbrances, which may have been imposed upon it after the time of original settlement, and of the exceptions that are to be observed to this rule; also of the registration of old talookdaree tenures so excepted, and likewise the registration of similar tenures created after the passing of this Act. In these sections the principal new matter is the requirement of the holder of the tenure not to be in arrears on the latest day of payment of revenue, as fixed under Sections III. and IV. of this Act, and the prescribing the registration of old and new talookdaree tenures. However judicious these provisions may be, for the definition of the respective rights of parties concerned in the sale of an estate, and as such, I consider them worthy of all approbation, I cannot but consider the carrying out of the rules under Sections XXXVI. and XXXVII. as transforming the Collector's cutcherry into a civil court, and that, subsequent to the passing of this law, the Collector will find his time entirely taken up with investigations as to the rights of every petty talookdar in the zillah. In most districts of Bengal, such as Rajeshye, Moorshedabad, Pubna, and Furreedpore, where I have myself held appointments in the fiscal department, holders of the tenures defined in Section XXXV. of the Act under review, possess documents defining their rights; but in the zillah of 24-Pergunnahs these documents are rare, as the zillah was measured in 1793, and no further definition of an under-tenure granted, than the entering of so much land against such and such a ryot's name in the jummabundee papers; and upon this frail tenure has the land gone down from father to son in the same families, but no separate pottah was granted by former zemindars to the holders of such lands, who nevertheless, in cases of arrears of rent, in accordance with the established practice of the zillah, sell these tenures under Act VIII. of 1835, which sales are recognised by the civil courts. These rights, also, are moreover frequently sold by the holders thereof in private transactions; it remains, therefore, to be considered whether the Board of Revenue will recognise these amongst the shikmee tenures designated in Section XXXVI. Further, it appears that the putnee tenures under Regulation VIII. of 1819 are not specifically mentioned in the list of those entered in Section XXXV. of the new Act; and though, from the specification of the particulars that the application for registration is to contain, it may be presumed they are included in the category, yet it would be more satisfactory to have the point defined.

18. In Section XXXVI. it is provided that, in case the Collector's proceeding be not satisfactory to the applicant for registry, the party is at liberty, within the space of one year from that officer's decision, to refer to the civil court. If such be the case, of what use are the provisions of Section XXXIX., which declare awards of Collectors to be open to appeal to superior revenue authorities? and should this continue in force, then must Section XXXVI. be slightly modified in this respect.

19. Section XLI. provides that, unless within 60 years from the date of registry a decree be passed at the suit of Government by a civil court pronouncing the registration to have been obtained by fraud, the entry in the permanent registry book shall be considered an effectual protection of the tenure. It appears to me that the intervention of the civil courts is unnecessary in such a case, and that, as the Board of Revenue has the power under Regulation XIX. of 1814 to quash a butwarrah fraudulently effected, so might it also take upon itself to nullify a fraudulent or otherwise erroneous registry, and without specifying any limit within which the discovery should be made.

20. On comparing Section XLIII. with Section XIV. of this Act, it appears to me that the provisions of the former neutralise those of the latter, inasmuch as Section XLIII. specifies that the purchaser of an estate under its provision will acquire it subject to all its incumbrances, whereas Section XIV. declares such a purchaser to obtain the estate free from them. I may have misconceived the terms of Section XLIII., as they are a little obscure, and in that case, I trust, I shall be undeceived.

21. None of the remaining sections of this Act appear to me to call for special notice, but there are one or two suggestions connected with the working of the whole law, that I trust I shall not be considered as trespassing too much on your attention in laying them before you.

First.—It appears to me that the fees prescribed to be levied are excessive, and will effectually prevent the holders thereof in zillahs, where the under tenures are held at rents under 500 rupees per annum, from profiting by the security held out to them by registry; and I would recommend a scale of fees for tenures paying under 500 rupees per annum.

Secondly.—In event of an individual petitioning for registry on acquiring land by purchase, gift, inheritance, or in any other mode, are the fees to be levied in conformity with the new law or Regulation XV. of 1797? Mutations, likewise; are they to be continued under Section XXI. of Regulation VIII. of 1800, or under the contemplated law?

Thirdly.—There is no specification in the Act under review for the sale of land, save of estates paying revenue to Government; and the Act in no place provides for the sale of any kheraj or lakheraj tenure that may have been pledged as security of good conduct by those who may have subsequently forfeited the same.

Fourthly.—The words "right and interest," hitherto intended to specify the amount of proprietorship to be disposed of, are entirely omitted in the phraseology of the new Act, as likewise mention of the validity, or otherwise, of a sale of an estate if subsequently discovered to have been purchased by an omlah of the Collector's office or one of his deputy collectors. These remarks have been, I am aware, extended to an unwarrantable length, but I have deemed it expedient to notice every point connected with the working of the proposed law that has presented itself for my consideration, or that may have been suggested, and I trust that this will be deemed sufficient apology for their prolixity.

I have, &c.
(signed) *F. A. Lushington*,
Officiating Collector.

From the Deputy-Collector of the Twenty-four Pergunnahs to the Officiating Collector of the Twenty-four Pergunnahs, No. 65, dated Allipore, 22 April 1856.

Sir,

WITH reference to your office memorandum, No. 242, dated 9th instant, forwarding copy of a letter from the Officiating Commissioner, No. 122, dated 8th instant, I have the honour to submit, as follows, my humble opinion as to the practical working of Sections XXXVI. and XXXVII. of the draft Act, to improve the law relating to sales of land for arrears of revenue.

2. These two sections contain rules for the registration of the first three classes of under-tenures described in Section XXXV. The tenures forming the first and second classes are those which existed at the time of the decennial settlement, and are called the old talookdaree tenures, and the tenures constituting the third class are those created subsequent to that settlement, and are called the new talookdaree tenures and farms.

3. The object of Section XXXV. is to protect the rights of under-tenants on the sale of the parent estate on account of arrears of revenue. To attain this object without any prejudice to the interests of Government, it is provided, that if the tenures are duly registered under Sections XXXVI. and XXXVII., and no arrears of rent are due from them on the latest day of payment, they are secured against any risk whatever.

4. I shall now proceed to consider how far the rules laid down in Sections XXXVI. and XXXVII. are sufficient to answer the purpose for which they are proposed to be enacted. In doing so, I beg to be understood that my remarks have reference to the under tenures of this district only, and may not therefore apply to the other districts of Bengal.

5. Section XXXVI. lays down the following rules for the registration of the old talookdaree tenures. The holder of such a tenure shall apply to the Collector for registration, who shall issue notices requiring the proprietor of the parent estate or any other party interested, within 30 days to file any objection he may have to the registry of the tenure. In the absence of any objection, the Collector, if, after making due inquiry, he is satisfied of the applicant's claim, shall register the tenure. If any objection is made, he shall make a summary investigation of the case, and grant or reject the application according to the result of that investigation.

6. From the above it appears that, in the cases of old talookdaree tenures, the Collector's inquiry shall be confined to the claim of the applicant so far as the rights of the proprietor and other private parties are concerned; and if that claim is established, the registry of the tenure shall be allowed without any inquiry as to the adequacy of the rent payable by the holder.

7. In this district the tenures of the above description are chiefly those called the ticcadaree lands. These tenures were granted by former zemindars to private individuals generally at a quit rent, for some service done, or for clearing jungle or breaking up a new soil, but seldom for pecuniary consideration. Few documents of these tenures are to be seen, the only proof of their existence being the mention made in the measurement and assessment papers of 1190 B. S.

8. But most of these lands have since been resumed, or have lapsed in default of heirs, and are now held by the proprietors in the names of their sons and relations. With a view of making a provision for their families, in the event of their estates being sold for arrears of revenue, the zemindars have not only transferred the tenures to their children at an inadequate rent, but have in many cases made a complete exchange of those lands; that is, the integrity of the tenures, as far as the quantity is concerned, has been preserved; but parcels of good land, in lieu of bad ones held by the original grantees, have been substituted.

9. It is most probable that these proprietors will take advantage of the proposed enactment, and get the lands registered in the names of their families and dependents, thereby reducing the hustbood of the mehals to a great extent; and the summary inquiry prescribed by Section XXXVI. will hardly enable the Collector to detect the fraud.

10. For the registration of the new talookdaree tenures and farms, the rules given in Section XXXVII., in addition to those prescribed in the preceding section, are that the Collector shall cause such measurement, survey, and local inquiry to be made as he may deem necessary for the security of the Government revenue. He shall satisfy himself that the tenure was created in good faith, so far as the interests of the Government revenue are concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed upon the parent estate.

11. To ascertain this latter point, it will be necessary, in many cases, to measure and survey not only the tenure to be registered, but the entire estate in which the tenure may be situated. For the tenure may contain land of a superior description, so that, although the rent payable by the holder may be equal to the average rate of the estate, yet it may be very inadequate with reference to the quality of the soil.

12. Under such circumstances, unless the total area of the estate be measured and a jummabundee prepared, after ascertaining the rates current in the mehal for the different sorts of land contained in it, it is next to impossible that any satisfactory opinion can be formed on the above point. I need hardly say that such an inquiry must entail on the Collector much loss of time, and on the parties concerned trouble and expense.

13. There is another circumstance connected with the zemindarees of this district which makes an inquiry of the above nature peculiarly difficult. It is this: almost in every pergunnah there are villages, the lands of which are held jointly by the proprietors of two or more separate estates. For instance, the lands of mouzah Kouchpookhurea in pergunnah Magoorah are possessed, ijmalee, by the proprietors of no less than fifteen different estates, as per margin, according to their respective shares.

No. on the Towjee.	NAME OF ESTATE.	Amount of Share in the Village.					
		R.	*a.*	*g.*	*c.*	*k.*	*t.*
1	Kist Chetlah and others - -	0	1	13	1	1	0
2	" Rungumberya, &c. - -	0	0	16	3	1	1½
3	" Naskurpore and others -	0	0	17	3	0	1
4	" Kudumtollah and others -	0	0	17	3	0	1
5	" Angaberya and others -	0	0	17	3	0	1
6	" Roynuggur and others -	0	2	18	1	1	0
8	Mouzah Joolphia and others -	0	2	13	1	1	0
9	Kist Chetlah and others - -	0	0	5	1	1	0
10	Ditto - - - - - -	0	0	5	1	1	0
11	Mouzah Suntoshpore and others -	0	0	5	1	1	0
12	Kist Chetlah and others - -	0	0	5	1	1	0
13	Ditto - - - - - -	0	0	5	1	1	0
14	Ditto - - - - - -	0	2	12	1	1	0
15	Kist Khureaberya and others -	0	1	6	2	2	0
16	" Chetlah and others - -	0	0	3	0	1	1½
	TOTAL - - -	1	0	0	0	0	0

14. Now, it is easy to guess how difficult it would be for the Collector to prosecute the inquiry prescribed by Section XXXVII., if an under-tenant of any of these estates were to apply for the registration of his tenure; and it is well known that, owing to this circumstance, some of the mehals above alluded to, have been under butwarrah for upwards of 20 years, and the partition remains unfinished up to this date.

I have, &c.
(signed) *Sibchunder Deb*,
Deputy Collector.

FROM the Collector of Behar to the Commissioner of Revenue for the Division of Patna, No. 39, dated Gya, the 10th May 1856.

Sir,

I HAVE the honour to acknowledge the receipt of your letter, No. 1254, of the 12th of March, with its enclosures from the Sudder Board, regarding the draft of a Bill for improving the Revenue Sale Law, and in reply to state as follows:—

2. I have carefully perused the Bill in question. I have compared it with Act I. of 1845. I have studied attentively the several new clauses which have been introduced, especially Sections X. to XVI. and XXXVI. to XLII.; and with every desire to weigh impartially the advantages which the contemplated Bill is presumed to involve, I am forced to the conviction that the advantages which may in some instances be conveyed to small farmers and petty shareholders by the operation of these new clauses are not of so paramount a nature as to necessitate the passing of a special Bill for their benefit, and am also of

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opinion, allowing advantages by the proposed changes may be secured to certain parties, that the same object, with perhaps a little more difficulty, is equally obtainable by legal process under the laws now in force, and I feel, moreover, forcibly convinced that the new law, if thoroughly acted up to, will so multiply the present arduous duties of the treasury department in a Collector's office, as to render it impossible to carry on the duties with the limited establishment now entertained; and it seems desirable, before passing the draft into law, that Government should well consider whether the advantages supposed to accrue to the petty shareholders by the new Act are commensurate with the immense increase of work its provisions will entail on their revenue officers and the expenditure and enlarged establishment will impose upon the State.

3. Act I. of 1845 has been in force now for more than 10 years, and as far as my experience goes, has worked admirably; it is thoroughly understood and appreciated by all classes of shareholders, and has stood the test of time to the thorough satisfaction of both Government and the people. Where then and what are the overwhelming motives that render it necessary to set aside an Act that not only works well, but is acceptable to the landed proprietors? No doubt some slight alterations might advantageously be effected in the old Act, such as substituting three periodical days for payment of revenue instead of four, and fixing the dates, not arbitrarily, but conformably with the three periods in the year in which the landlord collects his principal rents, namely, at the time of the Bhudree, Khurreef, and Rubbee crops, apportioning the kists according to the relative value of the said crops. Attention should also be paid in fixing the days of payment to the period of opium advances; the latter affords immense facility to the landlord in the payment of his Government revenue, and Government should bear in mind (I am speaking of Behar), that the ryots pay their rents to the zemindars from those advances, and that the latter are then in a position to pay Government. If the opium advances and fixed dates for paying in revenue are far removed one from the other, the smaller landholders, who compose the greater part of the class in this zillah, are compelled to borrow money at exorbitant interest to meet the Government demands; so that, if feasible, some attention should be called to this point.

4. But to revert to the Bill under discussion. If passed, its tendency will be to cause all ijmalli estates to become mouzawarry, and all mouzahs, or a large portion of them, now held under one or two or more recorded proprietors, to be subdivided into as many shares as there are shareholders; for, if not recorded proprietors, a dakhil kharij suit can make them so, and it is natural to conceive that every one possessing a distinct interest in a mouzah will prefer paying in the amount of his share direct to Government, and when, as frequently occurs in this zillah, some 80 or 100, or even more proprietors of a small estate, possessing infinitesimal interests in it, take advantage* of the proposed Bill to pay in their minute portions of the revenue direct into the Government treasury—and if no one oppose them there is no reason why they may not—what increase of labour will it not entail? What innumerable petty interests in estates must be entered in the treasury books? What an enormous aggregate of chellans and their counterparts? What a confusion of accounts? What difficulty in regulating the fractional portions some 40 or 50 shareholders, possessing a small mouzah paying a small Government jumma, will have to pay separately into the treasury? and what insuperable difficulties will present themselves at the last day of payment, when all these vast numbers of minute shareholders shall rush to the treasury to pay in their portions of the Government revenue? How impossible for the establishment, which under existing circumstances can scarcely during that period keep head against the current, to contend against the torrent which will pour in at the moment? It will fairly swamp them.

5. Such views may appear distorted and exaggerated, but it is only by putting forth an extreme case that the possible results can be gathered; and I am of opinion if Sections X. to XVI. are allowed full play, and are thoroughly acted up to by the petty shareholders of small estates, that a consummation such as I have hinted at may not be impossible, and the necessary consequence must be a large increase to the present treasury establishment, great delay in preparing and transmitting accounts, and a labour altogether incommensurate with the advantages proposed.

6. By the laws in force any recorded proprietor, if he wishes to separate his interest from the main property, can do so under the provisions of Regulation XIX. 1814, and his share becomes a distinct mouzah and is protected against sale as long as the Government revenue assigned upon it is regularly paid up; and as no restrictions, except that of insisting on the land so divided being compact and well defined, are imposed by the butwarrah laws, every part proprietor of an estate, if so disposed, can become independent, and I do not see why a law enabling a shareholder to pay in his rent separately, but not preserving his share from sale, is called for; it only creates and accumulates work without effecting anything that the laws in force could not with greater security convey.

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* I do not say they will, for Schedule B. will prevent them. I am only representing the legitimate result of the Bill, if carried out to its full tenor and extent.

7. In this zillah a vast number of estates are held in common tenancy, not of land but of produce; the system is bowlee or payment in produce instead of money. On the crops being cut they are appraised, and each shareholder, after deducting the ryotty hissa, gets his share of the remainder according to the amount of interest he holds in the mouzah. I conceive that in such a case the purchaser of a share under Section XIII. of the new Act, would experience great difficulty in getting his acquired rights assigned over to him; he has no land to take possession of, but a share in the produce, which fluctuates continually and to an interloper is almost intangible. A case of this nature would come under Section X., but does not that section apply rather to nugdee than to bowlee interests? The one is fixed, the other fluctuating; one is easily defined, the other varies so much as to render it impossible to assign a true valuation.

8. I am not aware that any instances occur in this zillah of shareholders in an estate possessing defined and distinct portions of land, so that Section XI. is hardly applicable to Behar; but I conceive, if any such instance exists, the question of separation could be more satisfactorily settled by the butwarrah than by the proposed law.

9. The matter of possession enjoined to be inquired into by the Collector in Section XII., is not so susceptible of proof as may be imagined; the evidence of the puarree and the statement of a nizamut peon, corroborated by witnesses, would constitute the grounds of decision, and nothing could be more untrustworthy or unsatisfactory; and in 90 cases out of 100 litigation would ensue, appeals would be preferred to higher authority, and the labour of both offices be indefinitely, and, to my notions, unnecessarily increased.

10. Sections XIII. and XIV. lay down rules for the sale of such share or shares as may fall into arrears, and are of such a nature as virtually to subvert and demolish the superstructure raised in the preceding clauses; for cases may, and will occur, where the highest offer for the ijmali share exposed to sale shall not cover the amount of arrear due thereon; the consequence is that the shareholder who, under Sections X. or XI., has obtained the privilege of opening a separate account, and who has, under Section XLVIII., been heavily mulcted to secure the said privilege, finds, through no fault of his own, that neither the fees he has paid under Schedule B., or the regularity with which he has scrupulously paid in his share of the Government revenue, in any way absolve or exonerate him from the calamity, neglect, wilful or unavoidable, on the part of the ijmali shareholders has plunged the entire estate. The shares of the insulated, as well as those of the united proprietors, become equally involved in the final catastrophe, and the only party benefited is Government, who appropriate the amercement* enjoined by Schedule B., and which was only paid in under a delusive hope that some corresponding advantage might result from it.

11. Sections XV. and XVI. are in every way just and appropriate, as there are many absentee shareholders of estates who are at the mercy of their local agents; and instances have been known where these latter, taking advantage of their position, have, through collusion or remissness, involved their principals in great difficulty. The proposed section enables such absentees to secure their interests unsubjected to risk or intrigue.

12. Section XVIII., corresponding with Section XI. of Act I. of 1845, has a tendency, I think, to make landholders procrastinate, an evil to which they are intuitively disposed; and instead of regarding the quarterly day of payment as the real arbiter of their fate, they look more to the character of the Collector, and pay in or adjourn payment accordingly. Some Collectors, as I know, confine themselves strictly to the letter of the law, and these rarely have an estate in arrear; others, more lenient or supine, find their sale-roll incumbered with applications for indulgence, and the consequence is, the rule being undefined, an immense latitude is left to the arbitrary will of the Collector. He may or he may not exempt an estate from sale, and it is possible that human frailty as much as stern impartiality may decide the point. I think, if certain periodical dates are specified, full and timely notices promulgated, and the landholders given to understand that from one year after passing of the Act no margin or latitude would be attended to; that, except an appeal to the Commissioner, no door of escape or retreat was open to them; that then, without any undue harshness or injustice to the landholders, the Government revenue would be paid in on the fixed dates with the greatest punctuality; and that there would be but few occasions for special consideration, if they did arise, and good and creditable reasons assigned. There would be ample time for the Commissioner to exempt such cases from sale; procrastination being a disease amongst the natives, strong remedies should be applied to correct the evil; there can be no hardship when every man knows beforehand that he has got three months to collect and pay in his rent.

13. Section XXIII., corresponding with Section XVI. of Act I. of 1845, requires one or two words of comment. A case occurred when I was Collector of Berhampoor, which presents a curious illustration of the working of this rule. An estate with an arrear of 21-10-6, and bearing a Sudder jumma of 31-14-11, was knocked down for 1,810 rupees, of which sum 25 per cent. or 452-8 was paid in as deposit. The purchaser, disapproving of

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* I call it a fine, because if the share is sold, and the fees, instead of being returned, are forfeited, the natives will regard them in the light of a fine.

his bargain, failed to pay up the full amount of the purchase-money; the estate was re-sold, the defaulter purchased it himself for 29 rupees. The question was whether the balance of the original purchase amount was to be collected from the defaulting bidder or not. I was of opinion that Section XVI. only provided for levying a difference in case the price realised at the re-sale was less than that acquired at the first sale, and referred the point for the consideration of the Commissioner, who referred it to the Board, the result of which was, that the difference of price was to be levied from the defaulting bidder and paid over to the proprietor. Now this is an extreme case, and I opine one hardly contemplated by the framers of the law. I conceive some distinction might be drawn between cases where the re-sale exceeds the amount of the first sale, and where there is a declension of price. A compulsion of payment in the latter case seems equitable, but barely so in the former, where the proprietor is himself the purchaser. The mulct paid in as deposit is amply sufficient to preclude any reckless speculation.

14. Passing on to Section XXXIV., we come to rules for registration. I am of opinion that very few tenures referred to in the first and second clauses, and possessing the peculiar qualifications enumerated in Section XXXVI., are to be found in Behar. Talookdaree tenures, distinct and apart from those referred to in Regulation II. of 1819, may exist in nizamut mehals, and if so, the option of effecting their registration is very properly conceded.

15. It also seems to be very desirable that farming leases and tenures of the description referred to in Clause 3 should be secured against any interference on the part of a purchaser of the parent estate; but at the same time, I think it possible for the Collector to be deceived in the inquiries he is called upon to make under Section XXXVII. He is there enjoined to satisfy himself that the tenure or lease was created in good faith as far as the interests of the Government revenue are concerned, and that the rent payable by the holder bears a fair proportion to that assigned on the parent estate. Now, as far as the interests of Government are concerned, I admit that fraud can scarcely be practised with impunity, as (supposing the Collector to have been deceived) the power of selling the whole estate if it falls into arrear, guarantees the Government from loss; but it is possible that a landholder possessing two mouzahs constituting one lot or estate, one of which mouzahs is good and the other bad, may effect a fictitious transfer of the good mouzah to his wife or son at half the Sudder jumma of the whole estate, and obtain registration under this Act. Now, supposing 500 rupees to be the Sudder jumma, the Collector would see, especially if warranted by the deposition of the putwarree and other testimony, no unfair proportion, if the villages possessed nearly the same area, in assessing each at 250 rupees; whereas one might be* worth 450 and the other only 50 rupees. Such instances are not uncommon. The landholders might then wilfully permit the estate to fall into arrear, and allow it to be sold. The purchaser in that case, bound by this Act to respect and not to interfere with the registered tenure, would find himself in the position of having to pay 250 rupees Government revenue for a mouzah which only yielded 50 rupees; and though by a regular suit under Section XLI. he might get the lease annulled, yet it would be a work of time. I entertain no doubt but that frauds of this and other unforeseen natures will arise out of this Act, and cause a great deal of trouble.

16. It is very difficult to foresee and anticipate all the possible results that may arise from the working of a Bill of the nature under review. Many of its provisions are doubtless admirable; but as my opinion is asked, I trust I may be absolved from impertinence or presumption if I venture the remark that the Bill does not appear absolutely called for. I think it will lead to abuses which, though dimly foreshadowed in my mind, are not sufficiently potent to authorise the expression of them. I think the Bill will conduce to great litigation, to a large increase of labour, to great confusion and trouble in the treasury department of a Collector's office, and that there is nothing introduced which the laws now in force do not, with perhaps a little more delay and difficulty, equally provide for.

17. The main objects to be obtained are set forth in the preamble: the first is that persons having liens upon estates should, by paying the money necessary to protect it from sale, have their rights secured. Does not Section IX. of Act I. of 1845 convey the same right? The second object is to afford shareholders easy means of paying in their share of Government revenue; can the means be called easy which are shackled† with such fees and charges under Schedule B. as of themselves tend to render the Bill abortive? for not one petty shareholder in 50, unless influenced by party discord or some peculiar and hidden motive, will incur the expense of obtaining a registration, especially when he knows beforehand that he does not thereby protect his share from subsequent sale, nor, if it did, is a special law on the subject requisite. Where there are many shareholders in an estate, the general interest requires that each shall pay up his quota of the Government revenue; if one fails, another pays it in under protest, and has his remedy in a civil action. The third

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* The Sudder and Mofussil jummas are of course quite distinct, the latter is always in excess of the former; but I am only here putting a case, and the amount of the Sudder jumma is quite sufficient for the purpose.

† In the former part of this letter, I have attempted to point out the disadvantages the provisions of the Bill would entail if really carried out, but I am of opinion that, if passed, it will become a dead letter, as no petty shareholder will pay in the fees and expenses enjoined under Schedule B.

motive is to protect absentee landlords against the sale of their estates through neglect or fraud of their agents. The Sudder Board's circular, No. 3, of the 21st of March 1854, moots the same question; it is one of considerable importance, and the justice of such a measure cannot be denied; but it may be asked what impediment exists at present, without any special law, to a Collector's receiving and crediting payment of revenue from recorded proprietors in anticipation? I know of none, and I doubt very much whether a Collector would be justified in refusing such advance payments; if the case refers to a farmer who holds land in lease from the zemindar, and, as an absentee, desires to protect himself from loss, then some law is desirable to effect it; but surely it cannot be urged that to secure this one point a new sale law was imperatively called for. The fourth motive is to enforce the registration of dependent talooks existing at the time of settlement, and to give security to such talooks when registered. I submit that the Bill does not enforce registration, but leaves it optional with the talookdar to effect or not as he likes, and my opinion is that Schedule B. operates as a serious impediment to any such registration. If registrations are effected, security is doubtless afforded by the Bill; but as regards Behar,* I doubt whether any of the nature implied exist, or if existing, that they will be registered; but, whether registered or not, they were protected against interference on the part of a sale purchaser by Section XXVI. of Act I. of 1845. The fifth and last motive is to protect farming tenures from loss or interference on the part of the purchaser in case the parent estate is sold for arrears of revenue. I say farming tenures, for none other could fall into the category of having rents fixed on them proportionate to those assigned on the parent estate —and if right in this view, the section above quoted affords the protection here set forth, so what necessity for a new law?

18. Having thus very imperfectly, and under the drawback and difficulties attending severe sickness, endeavoured to represent my views of the Bill in question, I would desire in conclusion to state a case existing in this district, for which no provisions have been suggested in the Bill under review. I allude to the case of the Belounjah Rajah, one well known to Government, and one which, notwithstanding repeated references from me, has not hitherto been finally disposed of; and as in the course of events it may entail much misery upon an impoverished but ancient house, I think the matter demands careful consideration.

19. The case is briefly as follows.—The father of the present Rajah, heavily involved in debt, and apprehensive that the sale of his entire raj would entail ruin upon his house, applied to Mr. Commissioner Smith, who proceeded to Bellonjah, and effected an arrangement whereby certain mouzahs, some 30 or 40, were made over to the creditors in mokurree, conditionally on the debts being remitted, and Government revenue to the extent of 7,391 rupees being paid in by them, and Mr. Smith ruled that the said mokurreedars were responsible for this portion of the Government revenue, and that the raj was only liable for sale in case the proceeds from the defaulting mokurreedars was insufficient to cover Government arrears. This order, illegal as it was, was confirmed by the Board in their letter No. 39, of the 28th March 1834, and on the strength of their confirmation, no less than 19 of these tenures were, up to 1843, sold for their own arrears. During the incumbency of Mr. Collector Taylor, a question of sale arose. Mr. Taylor saw the illegality and declared his inability to sell the defaulting tenure, and that the entire raj must be advertised for sale. Mr. Commissioner Gough acknowledged the dilemma, but urged distraint and less violent measures, and from that time to this, distraint and dustucks through the Nazir have been in force to collect the revenue; but the present rajah feeling the insecurity of his raj, petitioned to have Mr. Smith's provisions legalised. I recommended the introduction of Regulation VIII. of 1819 into this zillah, so as to treat these mokurrees as putnee talooks. The Board declined, and directed that the revenue should be collected from the mokurreedars under the provisions of Section XXV., Regulation VII. of 1799 and Regulation VIII. of 1835; but with all deference, I submit that these laws do not apply, and that the Collector could not, under one or the other, bring one of these mokurreree to sale, and that, in case of default, the existing law requires and enjoins that the entire raj should be advertised for sale.

20. Such is the case, and in a new sale law, was it not possible to introduce some clause whereby mokurree tenures in Behar should be placed in the same category as putnee talooks in Bengal? This would have been an essential boon, and one not only urgently required, but one which would have found great favour with the large landed proprietors of this district. I do not say or think that mokurree tenures in every respect correspond with putnee talooks, but the same rules might, I conceive, be brought to bear on both. The two tenures, with the exception of difference of local custom, possess strong features of resemblance; but, if Regulation VIII. of 1819 was not deemed applicable, some special clause or clauses might have been introduced elucidating and settling this vexed question.

I have, &c.
(signed) *R. F. Hodgson*,
Collector.

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* As Collector of Behar, I only write of my own district. I do not presume to infer that the putnee talooks in Bengal may not benefit by this and other clauses.

Appendix, No. 7.

From the Collector of Dinagepore, to the Commissioner of Revenue, Rajeshaye, No. 144, dated, Dinagepore, 8 April 1856.

Sir,

I HAVE the honour to acknowldge the receipt of your letter of the 11th March, calling for a report on the Bill for the improvement of the law relating to sales of land for an arrear of revenue, published in the Gazette of the 30th January last. The Bill to be reported on, embodies (a single section excepted) the whole of the present Sale Law, Act I. of 1845. It contains additional provisions for the protection, first, of the interests of the recorded sharer of a joint estate held in common tenancy, second of a recorded sharer of a joint estate whose share consists of a specific portion of the land of the estate. It protects also, first, Istemraree or Mokurreree tenures which were held at a fixed rent 12 years anterior to the permanent settlement. Second, tenures existing at the time of settlement not liable to increase of assessment. Third, tenures of whatsoever description created since the time of settlement. The provisions embodied in this Bill from Act I. of 1845 have worked so well for these last 10 years, and are acknowledged to be so well adapted to the requirements of our revenue system, as to render any interference with them in my judgment unnecessary and uncalled for. Their incorporation in the present Bill is sufficient evidence of the opinion entertained of their value. I may, therefore, be permitted to pass over this portion of the Bill, merely expressing my regrèt that, since additional provisions on the subject were considered necessary, they were not made the basis of a separate and distinct Act, instead of being incorporated in the present Bill. Reverting to the more specific provisions of the present Bill, the first and second relate to the protection, first, of a recorded sharer in a joint estate held in common tenancy; second, of a share which consists of a specific portion of the land of the estate; and I do not hesitate to state that the provisions are not only imperatively called for in justice to the co-sharer who has paid up his portion of the Government revenue, but that the mode proposed is, in my judgment, effectual, without in any way compromising the interests of the Government, or causing any loss or inconvenience to the zemindars. The idea appears to have been taken from the rules which obtain under the butwarrah regulation, and it may occasion surprise that a principle so distinctly enunciated nearly half a century ago, should hitherto have escaped the attention of our Legislators. The next division of the subject comprises under-tenures, as already shown.

1. The istemrare or mokurreree tenures which existed 12 years anterior to the permanent settlement.

2. The tenures existing at the time of the settlement.

3. Tenures of whatever nature, created since the settlement. I see no objection to the provisions of the Bill regarding the first and second descriptions of tenures. They are already in some measure protected by the conditions of the permanent settlement; the difference being that the permanent settlement consists simply in a declaration in favour of all such tenures generally, whereas the provisions of the present Bill are calculated to identify them. With reference to the third description of under-tenures, namely, those created since the permanent settlement, the question is no doubt one of great difficulty. I admit the necessity for protecting them in the event of a sale of the parent estate; and the scheme proposed in the Bill would perhaps be the best that could be devised, did it not appear in my judgment to be, under existing circumstances, hardly practicable. The difficulty springs from the obvious necessity (as proposed in the 27th Section of the Bill) for not only measuring and surveying the under-tenures, which operations are obstacles sufficient in themselves, but for the Collector satisfying himself that the rent payable by the holder is not less than is sufficient to afford a fair proportion of the revenue assessed upon the parent estate. To do this, it will be necessary, first, to ascertain what the actual assets and profits of the parent estate may be. But all revenue officers know the difficulty of ascertaining accurately, even in a case of butwarrah, the assets of an estate, and the time which elapses ere it can be tested, classified, and made available for that purpose. In no case can the inquiry be brought to a close in less than two years; but in cases where the zemindarees are large, three, or even four years may elapse, or a proximate period. Such being the state of things in butwarrah cases with respect to a single zemindaree, what labour and time will it not involve when brought to bear upon the zemindarees of an entire district. Added to this labour, will be the inquiry regarding the assets of the under-tenures, of which will be found, I surmise, nearly four or five thousand in most districts, and in no district less than two thousand. If the applications for registration of these under-holders come in nearly together, which will unavoidably be the case as I apprehend, the number of ameens that must be employed may be imagined, the numerous reports that must be made by them, the interlocutory orders in numbers that must be passed, and the lapse of time which all this work will involve. Supposing that, at the end of the first six months, a thousand cases are ready for decision by the Collector, and that that officer is able to dispose of as many cases per mensem as the Civil Court, namely, 25, he will only have decided 300 by the end of the year, or 1,800 in six years, or 3,600 in 12 years, unless the Government greatly increase the number of Collectors employed in Bengal, and thereby the expense to Government. Desirable, therefore, as the object of the Bill may be, I much fear that the difficulty of compassing it is of such a nature as to place it beyond our reach. I should, for these reasons, be disposed to prefer the scheme

formerly proposed by Government, namely, that "all under-tenures in an estate, without exception or inquiry, should be allowed to hold as good against an auction purchaser as they were against the former proprietor, as long as the parent estate should be saleable at a price that would cover the arrears of revenue due from it; that as soon as the parent estate should fail to be saleable at such a price, it should be forfeited to Government. The Government scheme is recommended by the hope it affords of eventually repairing the injury inflicted by the permanent settlement of Bengal. For the lapse of the zemindarees to Government on account of arrears of revenue, will afford Government the opportunity for restoring to the actual cultivators of the soil the status, of which that settlement unfortunately deprived them, and transferred, apparently under a misconception, to the mere tehsildars of the Mogul Government, who were mistaken for a body analogous to the landed proprietors of England. I am aware of the outcry which is raised against any measure which is supposed to have the slightest tendency to trench upon that settlement. But to remove the evils of a system acknowledged to have proved most disastrous to the great body of the people is, in my judgment, not merely advisable, but a duty imperative upon Government. I have to notice two other points of the present Bill, namely, first, that provided for in the last paragraph of Section IX.; and second, that composing the entire paragraph of Section XV. The first is a provision for refunding to the mortgagee, who may have discharged the arrears of Government revenue, to protect himself against the sale of the estate before the mortgage has lapsed. The second is the chance afforded to the proprietor of a zemindaree to protect his estate from sale by making a deposit of public securities, the interest of which shall be sufficient to pay the Government assessment charged upon the estate. Both of these provisions are based upon obvious justice, which demands their implicit adoption.

I have, &c.
(signed) *F. A. E. Dalrymple*, Collector.

FROM the Officiating Deputy Collector of Maldah to the Commissioner of Revenue, Rajshahye Division, Beauleah, No. 447, dated Maldah, 28 April 1856.

Sir,

I HAVE the honour to furnish the report required by the Board's Circular, No. 2, dated 26th February, and your letter, No. 71, dated 11th ultimo, on the Bill for the Improvement of the Law relating to Sales of Land for Arrears of Revenue, published in the "Gazette" of the 30th January last.

2. The main points in which this Bill differs from the law, as it now stands, appear to be these:—

First. It is proposed to secure parties having an interest in an estate against loss in protecting that interest, in case of its being imperilled, by the estate being allowed to fall into arrears, and so become liable to sale.

Secondly. To enable sharehholders in estates, duly paying their shares of the Sudder jumma, to protect their shares in case of the estate becoming liable to sale through default of their co-sharers.

Thirdly. To enable proprietors to secure their estates from sale through the neglect or fraud of their agents.

Fourthly. To enforce the registration of dependent talooks existing at the time of settlement, by giving security against the consequences of the sale for arrears of revenue of the parent estate to talooks so registered.

Fifthly. To protect the holders of under-tenures, created in good faith, from loss by the avoidance of their tenures through sale of the parent estate for arrears of revenue.

3. With a view to the attainment of the first object, Section IX. of the Bill permits persons, not being proprietors, to deposit the amount of arrears due from any estate, with the view to its being carried to the credit of the estate, and so of saving it from sale in case of the proprietor defaulting; the amount so deposited and credited being recoverable by suit in the Civil Court, or in case of the party holding a lien upon the estate, being added to the amount of that lien.

4. I think it impossible to take exception either to the object here proposed, or to the means by which it is to be attained; I think it most just and right that parties having interests in estates should be enabled to protect those interests, and that they should at the same time, as far as possible, be secured against loss in so doing; and I know of no method whereby the object would be attained so simply and effectually as it is by that proposed in this Bill. As the law now stands, what security have such persons? None whatever. The recorded proprietor is the only person whom the law recognises in connexion with the estate; all revenue paid on account of it must be paid in and credited in his name; the existence of other parties is absolutely ignored; and they have consequently no safe method whatever of protecting, against the consequences of the neglect or fraud of the proprietor of an estate, interests in it which may possibly be greater than his. This is not as it should

be; where an interest can be legally created, there should also be the means of protecting it legally; these means the Bill before us proposes to provide, and, as I have already said, in, I think, as simple and effectual a manner as possible.

5. In the next place, Section X. of the Bill proposes to empower the Collector to open a separate account with any shareholder in a joint estate held in common tenancy, who may desire to pay his share of the Government revenue separately; the form of application and course to be pursued by the Collector on receipt of it are prescribed in the Bill.

6. I am of opinion that this is also an excellent provision, and one calculated greatly to increase the security and enhance the value of landed property. It provides for a want hitherto, I believe, greatly felt, that namely, of security against the neglect or fraud of a co-sharer. As the law stands, the whole of a joint undivided estate is answerable for the whole of the revenue due from it; the smallest arrear remaining due after the last day of payment, renders the whole estate liable to sale; where the property in an estate is, as in this country so frequently happens, vested in a body, often a large one, of proprietors, great inconvenience must frequently be occasioned by the operation of this rule. I remember one case which I may quote as an instance of this; an estate in Chittagong, of which I now forget the name, was the property of a considerable body of shareholders; one set of shareholders invariably failed to pay in their share of the revenue when it became due, and the other set found themselves consequently compelled to find the whole amount, to raise the balance perhaps at an hour's notice or allow the estate to go for sale, and this happened not once, but regularly every quarter-day. It can easily be imagined how much annoyance and actual loss was caused by such a process of paying in the revenue, and how much the value of a share in such a mehal would be deteriorated by it. If the Bill under report become law, such a thing could not occur; the body of paying shareholders would at once apply for the opening of a separate account with them, and their interests would then be safe from the consequences of their co-sharers' default. I have no doubt whatever that this provision of the Bill will be taken advantage of to a great extent, should it become law.

7. And it cannot, I think, be doubted that the permission contained in this section may be granted with perfect safety to the Government revenue. In respect of the liability of the land for the revenue assessed upon it, no change whatever is made in the existing practice; all that it is proposed to do is to allow butwarrahs being made of jumma, as they now are of land; the object to be attained is the same, and the process by which it is to be attained infinitely more simple and inexpensive; while at the same time all risk to the Government revenue is avoided; I think it highly probable that one effect of this provision of the Bill will be to put a stop, in a great measure, to butwarrahs of lands for the future; by no means an undesirable result.

8. I now come to one of the most important of the alterations in the law which the Bill proposes to effect; by the section last referred to, shareholders are enabled to protect their interests against the fraud or neglect of their co-sharers; Section XV. of the Bill provides for the protection of the proprietor against the neglect or fraud of his own agent, by permitting him to deposit money or Government securities to meet any demand that may accrue against the estate.

9. The importance of this provision consists in this: that, as has, I believe, already been pointed out elsewhere, it virtually sanctions the redemption of the land-tax; it does so most undoubtedly; a proprietor of an estate has only to deposit Government securities to the value of 20 or 25 years' purchase of the revenue payable by the estate, according to the rate of interest which the securities bear, and his estate is secured against sale for ever.

10. The change in the nature of land tenure in this country which the enactment of this provision will involve, is unquestionably one of the utmost consequence; the object which the Bill proposes to attain is merely the securing of the proprietor against the fraud or neglect of his agent; the actual consequence may be the gradual conversion of all the zemindarees, independent talooks, and estates, under whatever denomination, paying revenue direct to Government, into virtually freehold tenures. Are the Legislature prepared to sanction this change? for my part I see no reason to dread it; on the contrary, the insecurity of landed property in this country has hitherto, I believe, been one of the causes which have chiefly retarded its advance in material prosperity; it is the cause which has mainly deterred from entering largely into zemindaree business Europeans, the men of capital, and what is perhaps more important, the men of energy.

11. One chief cause of this want of security in the case of estates paying revenue direct to Government, is the impossibility of reposing full confidence in native agents, mooktears, &c., and under the present system the least neglect,—it is unnecessary to suppose fraud on the part of any one of these men,—might throw the most valuable estate in the country into the market; security is possible only so far as actual personal supervision is possible; I know that now no European zemindar thinks it safe to be absent from his property as the quarter day comes near; I have frequently heard complains of the inconvenience thereby caused, and suggestions of the identical remedy which it is now proposed to provide. No provision of the Bill will, I am certain, be more popular than the one which enables the proprietor to dispense with the services of agents of all kinds, of whose honesty he can

never feel fully assured. If, to enable him to do so, the law is compelled at the same time to empower him virtually to alter the nature of his tenure, and secure it to himself and his heirs for ever, free of all demands, I see no reason why it should hesitate to do so; he is entitled to the fullest security for his property, compatible with the safety of the public revenue, and I do not see how anything can be urged against the provision of the Bill under consideration on the score of danger to the estate's income.

12. The sections of the Bill last noticed provide for the security of the Sudder malgoozar. I now come to those sections by which it is proposed to insure that of the subtenant also. This is to be effected by means of registration; the mode in which this registration is to be effected is prescribed in Sections XXXVI. and XXXVII. Sections of the Bill.

13. There can be no doubt that nothing has tended to shut out capital from land more than the insecurity of under-tenures; under the law, as it has hitherto stood, the great mass of under-tenures on an estate are quashed as soon as the estate is sold for arrears of revenue. It is needless here to do more than refer to the great amount of injustice, oppression, and fraud hereby rendered possible; every man who has had any experience in Mofussil practice knows what a powerful weapon this power of annulling under-tenures whenever he pleases is in the hands of a zemindar, and it is not allowed to rust for want of use. The question as to the best means for putting a stop to the improper exercise of this power, and for securing the under-tenant in the enjoyment of what is indisputably his property, has long attracted much attention, and various modes of solving it have been proposed at different times; so let us see how the Bill proposes to deal with it.

14. It proposes to except from avoidance and annulment, through sale of the estate, all under-tenures which may have been duly registered in one or other of the modes prescribed by Sections XXXVI. and XXXVII. of the Bill, according to the nature of the under-tenure. Security is to be obtained by registration, the process being as follows.

15. In the case of old talookdaree tenures existing for a certain period before, or at the time of settlement, the tenant must first present his application to the Collector, stating all particulars with regard to his tenure as far as they are ascertainable; on receipt of this application, the Collector is required to serve a notice on the recorded proprietors of the parent estate, and otherwise publish one, calling on all parties interested to appear within 30 days and prefer any objection he or they may desire to make. If no objection be preferred, nothing, of course, remains but to complete the registration; but if an objection be preferred, then an inquiry must be made; this inquiry will be summary, and the Collector's award is liable to be reversed by a decree of court.

16. In the case of new talookdaree tenures and farms for terms of years, the same course must be adopted, and in addition thereto, the following process must be gone through. On receipt of the application, the Collector is to cause whatever measurement, survey, or local inquiry he may deem necessary for the security of the Government revenue to be made, in order that he may be enabled to satisfy himself that the tenure was created in good faith, so far as the interests of Government are concerned, which he is bound to do before completing the registration.

17. The process of registration in the case of old talookdaree tenures is no doubt simple enough, and it may therefore be passed over without further remark, especially as it will be comparatively seldom employed, and will cease to be so after the lapse of three years from the passing of the Act; the mode of procedure, prescribed in the case of new talookdaree tenures and farms, requires some notice.

18. This process of registration differs from the other chiefly in this: that the Collector is bound, before completing the registration, to satisfy himself that the interests of Government are not endangered by the creation of the tenure; this, of course, he cannot do without a local inquiry. The Bill accordingly directs him to institute such an inquiry, and to make such survey, measurement, &c., as he shall deem necessary; but it does not say who is to bear the expense of such survey and measurement, nor does it in any way provide for the performance of the work by competent persons.

19. Looking at the instruments which the Collector must perforce employ in the conduct of this inquiry, and the manner in which such an opportunity is likely to be taken advantage of by them, it would, I think, be much better, if possible, to dispense with it altogether; the question is, is it possible to permit registration without such grievous inquiry? I think it is. The sole object of the inquiry prescribed by the Bill is the protection of the public interests; private interests, it is presumed, will be sufficiently well guarded by the parties themselves; the Collector must watch over those of the public, and his superintendence must be no mere thing of form, but close and vigilant; for this reason the Bill declares that, in case of an estate being at any future period thrown upon the hands of Government, it shall acquire the property subject to the provisions of the Bill, that is, in the case of permanently settled estates, subject to all encumbrances which may have been imposed upon it by the creation of under-tenures the permancy of which has been secured by registration. Such being the case, a really close and vigilant superintendence must be exercised by the officer who conducts the inquiry; otherwise the interests of Government will certainly be liable to suffer.

20. The sole object of the inquiry being the protection of the public interests, it follows that, if any other sufficient means of protection can be discovered, the inquiry may be dispensed with, and it is not necessary to go far in search of them: let the present system of annulment of under-tenures on sale of the estate be continued in all cases in which an estate is thrown upon the hands of Government; and the Government interests are at once protected in the most efficient manner; they are secured in a way in which they never will be under the Bill. Nor would there be any injustice whatever in exempting the estate from the operation of the provisions affecting private purchasers; the original agreement made between the Government and the zemindar was that, so long as he continued to pay a certain amount of revenue, so long he should remain in undisturbed possession of the estate; the under-tenants are bound to the tenant-in-chief, and through them to the Government by similar agreements: there can be no injustice whatever in declaring that, if they fail in their part of the contract, they must pay the penalty; that, if one set of tenants fail in paying the stipulated amount of revenue, the Government will cancel the agreement made with them, and proceed to oust them and induct another set who will pay it.

21. To sum up briefly, I think all the provisions of the Bill excellent, with the exception of those which declare registered under-tenures not liable to annulment on sale of the parent estate to Government, and prescribe a local inquiry as the means by which Government interests are to be protected against any fraud in the creation of those under-tenures. In lieu of these, I would propose to substitute a clause declaring all under-tenures liable to avoidance in case of the estate being thrown on the hands of Government, and to allow the mode of registration prescribed in Section XXXVI. of the Bill to be adopted in all cases.

I have, &c.
(signed) *E. C. Craster,*
Officiating Deputy Collector.

(No. 5.)

PETITION of Rajah Sutt Shurn Ghosaul, dated 19 November 1856.

To the Honourable Members of the Legislative Council of India.

The humble Petition of Sutt Shurn Ghosaul of Bhookoyloss, Zillah 24-Pergunnahs, a Zemindar in the Presidency of Bengal.

Most respectfully showeth,

THAT in continuation of his petition dated the 19th September last,* your petitioner begs to suggest to the Honourable Council to introduce in the proposed law a section to the effect that holders of under-tenures created since settlement, from whom no balance was due on the latest day of payment, should be entitled to damages from the defaulting proprietor, his successors, &c., in proportion to the loss sustained by them, by the avoidance of their tenures on the occasion of a sale of the zemindaree in arrear within a period to be judiciously and wisely limited by the Honourable Council.

Such a provision in your petitioner's humble opinion will tend much to realise the laudable object of the Honourable Council to protect the interests of the tenure-holders contemplated in the latter part of the Bill, and will not only suppress fraud and collusion, but it will also prove a preventive as well as a remedial measure.

And your petitioner, as in duty bound, shall ever pray,

Bhookoyloss, 19 November 1856. *Sutt Shurn Ghosaul.*

No. (6.)

From the Junior Secretary to the Government of Bengal, to the Clerk of the Legislative Council, No. 864, dated Fort William, 8 December 1856.

Sir,

Revenue.

IN continuation of this office, letter No. 671, dated the 19th September last, I am directed to forward herewith, a copy of a letter No. 433, dated the 18th ultimo, and of its enclosure, regarding the proposed new sale law, from the officiating secretary to the Board of Revenue.

I have, &c.
(signed) *C. T. Buckland,*
Junior Secretary to the Government of Bengal.

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* See further Papers (No. 3) relative to the Sale Law Improvement Bill.

LAND REVENUE.
W. Dampier and H. Stainforth, Esqrs.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal, Revenue Department, No. 433, dated Fort William, 18 November 1856.

Sir,

IN reply to your letter of the 1st ultimo, No. 696, I am directed by the Board of Revenue to forward, herewith, copies of the Minutes * of the Members on the Lieutenant-Governor's printed Minute on the subject of the proposed new sale law.

*Mr. Dampier's, dated 31st ultimo. Mr. Stainforths, dated 17th instant.

I have, &c.
(signed) *E. T. Trevor*,
Officiating Secretary.

Mr. *Dampier's* Minute.

I HAVE looked over the Minute of the Lieutenant-Governor regarding the proposed new sale law. I do not think any lengthened or detailed remarks on it necessary or called for from the Board.

I quite concur in the opinion expressed by Mr. Halliday as to the advisability, to use the least strong term, of fixing a limit to the amount of revenue paid by a shareholder which would give him the privilege of opening a separate account with the collector. Even under the present system of separation by butwarrah, several officers (the late Commissioners † of Bhaugulpore and Cuttack being, I think, amongst them) have represented the necessity of confining the operation of the butwarrah laws to sharers in estates paying not less than 50 rupees annual revenue to the Government.

† Messrs. Brown and Samuells.

I would also confine the use of this privilege to recorded proprietors, and not have any inquiry as to possession by the collector as a rule. Possession and registration may be said always to go together; but where an heir was not registered and is in possession, there can be no injury done in making the registry of his name necessary before he can open a separate account; and this measure would also tend to check the entry of fictitious names or of benamee holders on the register.

I conceive it to be impossible that the intent of the proposed law is to alter the status of the dependant talookdars and other holders whose tenures' rents or revenue were fixed by the permanent settlement. If it is necessary to have a penalty for the non-registry of such tenures, it should be of the nature laid down in Section XXI. Regulation VIII. of 1800, to be inflicted on zemindars for non-registration of mutations in their holdings. The zemindars and these talookdars and others are alike protected by the laws of, and declared permanent by, the decennial settlement; and we have no more right to avoid such tenures for an arrear of rent, than we have to break up the permanent settlement of a zemindaree on the occurrence of an arrear of revenue.

I must say that, granting the expediency of rendering post settlement under-tenures more secure, it appears to me that this measure is proposed to be done without much reference to the right of the zemindars. It may be said that, as the zemindar cannot profit (excepting by fraud) by the annulment of such tenures by the sale of the estate for arrears of revenue, he is not actually injured, or a loser, but certainly the pecuniary value of such holdings is vastly increased by this measure; and had this permanency of tenure existed or been even thought likely to exist when the tenure was given, or if he had now the power of withholding the permanency, excepting on payment of an additional fine, a much higher price or consideration would have been or might now be levied by the zemindar—which he now is deprived of.

I must say that I am very much inclined to concur in the plan proposed by the Lieutenant-Governor; and even with that, and limiting the provisions of the law to tenures holding direct from the zemindar or other person paying revenue to the Government, I still think that the inquiries proposed by Sections XXXVI. and XXXVII. to be carried out by the collector will present difficulties almost, if not in many cases completely, insuperable.

It may also be a question by whom are the expenses attendant on such inquiries to be paid. By the Government who is not interested in the matter: by the zemindar whose interests are, if anything, injured by this security given to his under-tenant; or by the under-tenant himself? The last is the just course; for if, as a necessary part of the scheme, the under-tenure is to be protected from the time of application for registration, it will not be an object for even honest claimants to hasten the conclusion of the summary inquiries, whilst to dishonest or false claimants it would be an advantage to delay by any means their conclusion. The expenses of all kinds should, I think, in the first instance be levied from the claimants to registration, leaving the deciding officer the power of adjudicating any portion of them to be refunded by opponents and counter claimants.

31 October 1856. (signed) *W. Dampier.*

Mr. *H. Stainforth's* Minute.

IT certainly seems necessary to limit the separation of accounts in joint undivided estates, if the project of separating them is to become law. But I venture to recommend that it be abandoned, as the objects sought may, apparently, be more easily and effectually attained by allowing the collectors to receive petitions, presented within seven days from the latest date for payment, by registered proprietors who have paid their quotas of the revenue (which should be ascertained, in order to carry out Section III. Regulation XV. of 1797, and are not liable to alteration saving in cases of specific portions of mehals under the butwarrah law); and to exempt from sale, at the time thereof, such portions as they may find, on such petitions supported by dakhilas, to be free from arrears of revenue.

Such a system would prevent influx, into the collector's offices, of work with which it might be impossible to cope, and it would at all events save a large amount of inconvenience, labour, and expense which it is difficult to estimate before-hand; moreover, it would be quite as effectual, as that proposed in the Bill, in preventing minute sub-division of estates by butwarrah.

It would also avoid the obvious conflict between Sections X., XI., and XII. of the Bill, and Sections IV., XXXIII. and XXXIV. of Regulation XIX. of 1814, which latter sections must apparently be rescinded if the former pass into law.

The remarks of the Lieutenant-Governor on the ante-settlement talookas have my entire concurrence. The talookadars were certainly required, by Clause 8, Section XV., Regulation VII. of 1799, to register all transfers of their talookas in the zemindar's cutcherry; but it was also incumbent on the zemindar to keep up such registers. This, however, it was not their interest to do, as it would have given firmness to the independent tenures, detracting from the value of their own, and there can be no doubt that both parties have failed in their duty in respect to these registers. Under such circumstances to require the talookadars to register their talookas in the manner proposed in the Bill, after so great a lapse of time, in a country in which the means of preserving documentary evidence are extremely defective, seems to me only another term for compelling them, in the great majority of cases, to expose their inability to defend themselves against claims for higher assessment, and most unjust.

I am strongly adverse to alteration of the law, so as to maintain post-settlement tenures after a sale for arrears of revenue and to cause the creation of such tenures in places where they do not exist at present, because I believe them to be, as I have already stated, bad for ryots. Moreover, I doubt whether even the plan, proposed by the Lieutenant-Governor in the 51st paragraph of his Minute in respect to such tenants, can be adopted with safety to the public revenue, for it strikes me that a zemindar may, by fraudulently creating several tenures in subordination, intercept such a portion of the rent payable by the ryot as will leave little receivable by the Government. It was found necessary to supersede Section VIII. Regulation V. of 1812, by Section XXIX. Reguletion XI. of 1822; and we should, I submit, be most cautious in our proceedings now.

I trust that I may, without impropriety, add to the foregoing remarks on the Lieutenant-Governor's Minute, some further observations on the details of the Bill.

Section XII. I do not perceive why a collector should wait till an estate be notified for sale under Section VI., before he issues the proclamation prescribed in Section VII. Apparently the latter should be issued as soon as possible after the estate is ascertained to be in balance.

Sections X., XI., and XII. Referring more specially to the fact that $\frac{15}{16}$ of the sharers in joint undivided estates are notoriously unregistered, it seems to me that objections should be received from any persons who can show themselves to be sharers, whether they are registered or not.

Section XIV. I do not see how a collector is to proceed if two or more co-sharers are ready, each simultaneously, to pay up the arrears of a defaulting co-sharer.

" Section. VII." should apparently be added after " Section VI." in the 14th Section.

Section XVIII. In the 18th Section I would prescribe a proclamation notifying to the ryots the removal of the attachment.

Sections XXXV. and XLIII. Section XLIII. of the Bill, founded on Section XXIX. Act I. 1845, contemplates giving to shareholders in estates under butwarrah, who may have saved their shares under Sections XXXIII. and XXXIV. Regulation XIX. of 1814, and who may purchase portions of estates sold in realization of arrears of revenue, greater rights than it allows to other shareholders who may purchase, but it does not explain what excess of right the former class of purchasers is to be held to acquire.

Section XXXV., too, of the Bill specifies the rights of purchasers of "entire estates," but neither in it, nor in any other part of the Bill, is there any specification of the rights of purchasers of portions of estates.

In the absence of such specification, it seems to me that purchasers to whom its 10th Section relates, can obtain no greater rights than those conferred on them by Section XXXIII., Regulation XIX. of 1814, which is recognised as living law by the 43d Section of the Bill, and yet it seems unquestionable that the framer of the Bill must have intended to give them rights not inferior to those which he intended to give to non-defaulting sharers who may purchase. What, however, he intended to give to these latter, he has left in doubt and uncertainty.

Obviously there should be a clear specification of the rights acquired by all descriptions of purchasers of portions of estates inserted in the Bill; and, in my judgment, these rights should be, in all cases, equal, even when the purchasers are non-defaulting sharers or persons previously unconnected with the estate.

No law hitherto passed has authorised annulment of tenures (not being farms) throughout an estate, on account of the sale of a portion of it; and I do not suppose that the author of the Bill intends to allow this. But application of the powers given in Section XXXV. of the Bill, so as to annul pottahs to the extent of purchase, will, I submit, give rise to much confusion and inconvenience.

It may happen, for instance, that the holder of a tenure, asserted to have existed more than twelve years before the decennial settlement, may have a decision passed against him in favour of a purchaser of a portion of an estate, cancelling his tenure quoad such portion; under such circumstances, I do not see how we could make a butwarrah of the estate. Section XXX, Regulation XIX. of 1814, tell us how to proceed in respect to two descriptions of estates, that is, those held by sharers in common right and interest, and those in which the shares consist of separate mehals; but the case contemplated would be of neither kind. We should have one portion in which the assets for allotment of the jumma would be a share of the rent payable by the ryots, and another portion in which they would be the rent paid by the intermediate tenant, which the proprietors of the unsold portion cannot alter, and for questioning which, until a further sale, there is no mode of proceeding whatever.

To me it seems that the only rights which should be conferred on purchasers of portions of estates are those granted by Section XXXIII, Regulation XIX, 1814. If, however, greater rights are given to them, it will apparently be necessary to alter Section X, Regulation I, of 1793, Section VIII, Regulation VIII. of 1801, and Section XXX, Regulation XIX, of 1814.

(signed) *H. Stainforth.*

17 November 1856.

(No. 7.)

Petition of certain Zemindars of the 24-Pergunnahs.

To the Honourable the Legislative Council of India.

The humble Petition of the undersigned Zemindars of Zillah 24-Pergunnahs.

Showeth,

That your petitioners have viewed with deep concern the project of an organic change in the constitution of the landed system of this country contained in Sections XXXV. to XLI., XLVII., and XLIX., of a Bill entitled, "A Bill to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency," read a second time before your Honourable Council on the 26th January 1856.

That your petitioners observe that the effect of the operation of the proposed law will be to ultimately dissolve the permanent settlement, and to destroy with it the various interests which have grown upon it.

That your petitioners submit with all due respect that your Honourable Council is not competent to entertain a project of law of this purport and tendency.

1. Because it is contrary to the spirit of the Statute of Parliament 24 Geo. 3, c. 24, s. 39, and to the command therein conveyed, the said section running as follows:

"And whereas complaints have prevailed that divers rajahs, zemindars, polygars, talookdars, and other native landholders within the British Territories in India, have been unjustly deprived of, or compelled to abandon and relinquish, their respective lands, jurisdictions, rights, and privileges, or that the tributes, rents, and services required to be by them paid or performed for their respective possessions to the said United Company are become grievous and oppressive. And whereas principles of justice and the honour of this country require that such complaints should be forthwith inquired into and fully investigated, and if founded in truth, effectually redressed. Be it therefore enacted that the Court of Directors of the said United Company shall, and they are hereby accordingly required forthwith to take the said matters into their serious consideration, and to adopt, take, and pursue such methods for inquiring into the causes, foundation, and truth of the said complaints, and for obtaining a full and perfect knowledge of the source and of all the circumstances relating thereto as the said Court of Directors shall think best adapted for that purpose, and thereupon according to the circumstances of the respective cases of the said rajahs, zemindars, polygars, talookdars, and other native landholders, to give orders and instructions to the several Governments and Presidencies in India, for effectually redressing, in such manner as shall be consistent with justice and the laws and customs of the country, all injuries and wrongs which the said rajahs, zemindars, polygars, talookdars, and other native landholders may have sustained unjustly in the manner aforesaid, and for settling and establishing upon principles of moderation and justice according to the laws and constitution of India, the permanent rules by which their respective tributes, rents, and services shall be in future rendered and paid to the said United Company by the said rajahs, zemindars, polygars, talookdars, and other native landholders."

2. Because your Honourable Council are in fact as well as in the eye of the law, the Governor-General of India in Council, that is to say, the same authority which guaranteed in the most solemn manner the maintenance in perpetuity of the settlement made in 1790.

That

Appendix, No. 7.

That the proclamation of the Governor-General of India in Council, by the which the permanent settlement was inaugurated, contained among other provisions the following:

ART. 6. "In the event of any zemindar, independent talookdar, or other actual proprietor of land with or on behalf of whom a settlement has been, or may be, concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been, or may be, assessed upon their lands under the abovementioned regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place."

ART. 9. "The Governor-General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this article, (which are conformable to principles of the existing regulations,) that if any zemindar, independent talookdar, or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent talook, the jumma which may be stipulated to be paid by the dependent talookdar will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed in any case to affect the rights or claims of Government, any more than if it had never taken place."

The proposed law, therefore, militates in letter as well as in spirit against the law which established the permanent settlement.

That the power reserved in Article 7 of the abovementioned proclamation to the Governor-General of India in Council to enact such regulations as he may think necessary for the protection and welfare of dependent talookdars, ryots, and other cultivators of the soil cannot be so construed as to mean that the Legislature of India is at liberty to enact a law or regulation for the protection of any class of under-tenants that would endanger the permanence of the settlement of 1790.

That the argument founded on the plea that default on the part of a zemindar in the payment of the revenue assessed upon his estate dissolves the contract between him and the Government, and sets the latter at liberty to make any arrangement it chooses for realising the public revenue from the lands comprised in such estate, is equally untenable.

1. Because the defaulting zemindar is entitled to the full value of his estate, except so much of it as he may have parted with by his voluntary acts or the voluntary acts of those he represents or has succeeded, and any act of Government which would diminish the value of this interest of the zemindar would be an act of confiscation.

2. Because the dissolution of the contract between the defaulting zemindar individually and personally and the Government cannot alter or otherwise affect the zemindary character or tenure of his estate any more than default on the part of a putneedar can, by dissolving the contract between him and his zemindar, alter or affect the character or tenure of the putnee estate.

3. Because the argument, if allowed to be valid, would destroy the institutional character of the permanent settlement as apart from its fiscal character; and that the settlement had such an institutional character apart from its fiscal character is a fact notorious and recorded in history and in State documents.

That your petitioners further deny that the proposed law is justifiable on grounds of expediency.

That the ostensible object of the proposed law is to give security to under-tenures of all sorts.

That the tenures enumerated in what are called the exceptive clauses of Section XXVI. of Act I. of 1845 do not stand in need of such security, and these comprise the tenures by which the vast mass of cultivators hold the lands they cultivate, and almost all resident tenants hold the lands on which they reside.

That the supposed benefit of the proposed law is therefore chiefly intended for the holders of tenures intermediate between the zemindar and those referred to in the preceding class.

That the middle-tenures do not practically stand in need of greater security than the tenures of resident cultivators, a fact apparent upon the face of the official lists of zemindaries sold for the realisation of arrears of revenue since the law now in force for the realisation of the public land revenue was enacted, and clearly deducible from the circumstance of middle-tenures having been since the date of the permanent settlement continually increasing in number and value.

That the proposed law, if enacted, will not even give to middle-tenures that theoretical security which is said to be wanted for them; for the Bill among other things contemplates and provides for the contingency of a state of things in which middle-tenures in defaulting zemindaries will have to be destroyed without any compensation to their owners.

That the immediate effect of the enactment of the proposed law will be the multiplication of these middle-tenures.

That the multiplication of middle-tenures is an unmitigated evil, a fact proved by the circumstance that rent is highest and the rights of the resident tenantry have suffered the most in those districts of Bengal in which middle-tenures abound, it being notorious that middlemen are the most oppressive and extortionate of landlords all over the world.

That the proposed law is unnecessary to the reasonable protection of under-tenures, the owners of which can under the law now in force obtain from the executive authorities, on cause shown, exemption from the consequences of a sale of the zemindary in which they hold.

That the proposed law is not called for by any valid considerations of justice towards the owners of under-tenures.

1. Because the proposed law is framed only to benefit the owners of tenures held immediately of zemindars.

2. Because the interests of the holders of all under-tenures, whether held immediately or mediately of zemindars, will be better secured by a law declaratory of the right of the holders of under-tenures to compensation for the loss of their tenures by the sale of zemindaries for the realisation of arrears of revenue.

That, therefore, your petitioners pray that the Bill for the amendment of the law relating to the sale of lands for arrears of revenue be passed without the Sections numbered XXXV. to XLI., XLVII., and XLIX., and that instead of the last-mentioned sections others be inserted therein declaring the right of all under-tenants to sue defaulting zemindars for compensation for loss sustained by them in consequence of such default.

And your petitioners, as in duty bound, will ever pray.

Twenty-five Signatures.

(No. 8.)

PETITION of Protestant Missionaries residing in or near *Calcutta*.

To the Honourable the Legislative Council of India.

The Petition of the undersigned Protestant Missionaries residing in or near *Calcutta*

Respectfully showeth,

THAT your petitioners desire to express to your Honourable Council the satisfaction and gratitude with which they observed the introduction into your Honourable Council, on the 22d December 1855, by the Honourable J. P. Grant, of a Bill to improve the law relating to sales of land for arrears of revenue in the Presidency of Bengal; and their earnest hope that the leading principles and provisions of that valuable and important measure may be speedily embodied in a law.

2. That your petitioners beg leave to submit to your Honourable Council their views on the evils which that Bill is designed to meet; and generally, on the position of the cultivating classes in this Presidency; and they respectfully but earnestly solicit the favourable consideration of your Honourable Council to their representation of the claims of those classes of the community who are unable effectually to plead for themselves.

3. That your petitioners recognise in the perpetual settlement an important boon to the whole Presidency, in its limitation of the land tax, and they regard that settlement as the probable foundation of great national prosperity. But in the practical operation of the system, your petitioners observe two distinct classes of evils.

First. The under-tenures are insecure; the rents of the cultivating classes are capriciously varied; and the interests of those classes are virtually unprotected.

Secondly. The zemindars are armed with extraordinary and excessive powers.

4. That your petitioners believe it to be notorious that the intentions of the laws for securing leases to the tenants, for securing them receipts on their payments of rent, for limiting within just bounds the rents reserved in leases, and for checking the custom of exacting abwabs and other arbitrary additional charges and cesses, are commonly frustrated and defeated. On the other hand the power of the zemindars (as recognised in Regulation VII. of 1799, Section XV., Clause 8), to compel the personal attendance of their tenants, for the adjustment of rent and other purposes, is, practically, in many parts of the country, a substitute for the regular and ordinary processes of the law, and is virtually the subjection of the tenants to a state of slavery; and further, this evil is in many instances greatly aggravated by the estates being held in co-tenancy, so that several shareholders, who are often in a state of conflict, equally exercise an arbitrary and unrestrained authority.

5. That while this law thus presses severely on the tenants, your petitioners observe that, from the increased cultivation of the soil, and the greatly increased value of its produce, the zemindars, who were primarily regarded simply as collectors of the land tax or farmers of the revenue, entitled to a fair profit on the returns, derive now a revenue greatly in excess of the revenue which they pay to Government; and thus, contemporaneously, while the zemindar has been rising in wealth and power, the tenant has been sinking into penury and

dependence, subject to illegal and exhausting exactions, harassed by contending proprietors, and oppressed by the exercise of extra-judicial powers.

6. That your petitioners submit that this result was neither designed nor contemplated by the perpetual settlement. By that arrangement certain great advantages were secured. A moderate assessment was levied on the land in substitution for uncertain and unlimited demands; and an important class in the community, who were regarded as foremost in intelligence and influence, were placed in a position of responsibility, usefulness, and honour. But these zemindars have, since that time, not only acquired by law the power of enforcing their demands by *ex parte* proceedings, commencing with the arrest and imprisonment of the tenants, but have also received the sanction of the law, as already stated, to their custom of enforcing the personal attendance of their tenants at their pleasure; and both these powers, but especially the latter, your petitioners believe, they often greatly and shamefully abuse.

7. That in the practical and extended development of this system, it is manifest that the tenants suffer from a lax administration of laws passed for their protection; that they are oppressed by the execution of other laws, which arm the zemindars with excessive power; that they do not share with the zemindars in the advantages derived from the development of the resources of the country; that the profits thus monopolised by the zemindars are already incalculably valuable; and that, year after year, the condition of the tenants appears more and more pitiable and hopeless.

8. That your petitioners are compelled to add, that other evils increase the wretchedness of the condition to which a tenant is thus reduced. The village chowkeydars are the servants of his landlord; the Government police are corrupt, and he cannot vie with his landlord in purchasing their favour; the courts of justice are dilatory and expensive, and are often far distant from his abode, so that he has no hope of redress for the most cruel wrongs; and he is frequently implicated in affrays, respecting disputed boundaries, in which he has not the slightest personal interest. Ignorant of his rights, uneducated, subdued by oppression, accustomed to penury, and sometimes reduced to destitution, the cultivator of the soil in many parts of this Presidency derives little benefit from the British rule, beyond protection from Mahratta invasions.

9. That your petitioners believe that, under these circumstances, the interference of your Honourable Council is urgently demanded by justice and benevolence; and they view the present Sale Bill as an important step in the right direction.

10. That the objections of the zemindars to the measure appear to your petitioners entirely futile. It appears to your petitioners unquestionable that your Honourable Council may justly protect the tenant, provided only it leave the zemindar ample means of paying the Government revenue, and a fair profit on his collections. The elevation of this zemindarry class, by extraordinary protective and fostering measures, is not a policy that can be wisely or equitably pursued, to the sacrifice of the great mass of the people.

11. That your petitioners confidently submit to your Honourable Council that the zemindars have not fulfilled the just expectations of the State, or the conditions connected with the perpetual settlement. The extension of cultivation in Bengal, for which they claim credit, your petitioners ascribe, not to the enterprise, capital, or public spirit of the zemindars, but to the great increase of population during the last hundred years of domestic peace. Far from accelerating the progress of the country, either in civilisation or material prosperity, the zemindars have generally checked the accumulation of capital by their tenants. They have not stimulated exertion by their own example, nor encouraged confidence by generosity and kindness. On the contrary, by arbitrary exactions, they have repressed the industry of their tenants, and by the exercise of their excessive powers under the Regulation VII. of 1799, they have destroyed every vestige of their independence.

12. That your petitioners are well aware of exceptions. They know that there are powerful middle-men, indigo planters and others, who have resisted and struggled with the zemindars, and against whom it is impossible to enforce the extraordinary powers which are mercilessly wielded against the poor. But your petitioners desire to be understood as speaking of the great mass of the cultivating classes constituting a large proportion of the entire population; and on these your petitioners believe that the oppressions of all the various grades of superiors, both middle-men and zemindars, have been practised, and are still practised, with lamentable effect, partly with legal sanction, and partly without it, but entirely, in nearly every case, without the slightest hope on the part of the tenant of legal redress.

13. That, in respect of the exactions of the middle-men, your petitioners believe that a considerable part must be ascribed to the uncertain tenures of that class. Having no permanent interest in the soil or the people, they are seldom the protectors of their dependent cultivators. If fixity or permanence of tenure were established, then, immediately, as your petitioners believe, the tendency would be to establish just relations between the landlord and the tenant from the highest to the lowest; and that principle your petitioners therefore earnestly desire to see adopted and carried out. At present it is infringed, in the first instance, by the right of the Government to sell the land for arrears of revenue, and thereby avoid the under-tenures with some few exceptions; and then, still more, by the

entire absence of protection to the tenants, and the undefined relations of landlord and tenant throughout the Presidency.

14. That in connexion with this subject, the Calcutta Missionary Conference, in the year 1852, requested one of its members, well acquainted with the subject, to prepare a paper on the redemption or commutation of the land-tax, and that document was published and circulated both in India and in England. Subsequently, the Missionaries of Calcutta, in their petition to Parliament in the same year, prayed for a measure having the redemption of the land-tax for its object, with the view at once to induce capitalists to invest in land, and to enable small holders to acquire permanent freehold rights.

15. That your petitioners have annexed to this petition a copy of the paper referred to, and respectfully submit its statements and arguments to the attention of your Honourable Council.

16. That your petitioners now find, with great satisfaction, that the Board of Revenue have unanimously approved of the 15th section of the present Bill, which provides that any recorded proprietor or co-partner of an estate, may, by deposit of Company's paper, secure his estate from sale for arrears of land revenue; and have distinctly recognised the expediency of permitting the complete redemption of the land-tax.

17. That your petitioners anticipate, from the adoption of the principle involved in that section, a powerful stimulus to exertion for the purpose of securing freehold rights; and as the result of the possession of those rights, the creation of that spirit of freedom which has always been the spring of enterprise, emulation, and social progress.

18. That your petitioners submit that the terms of the 15th section may be safely extended, by a provision for the payment of a definite rate of purchase money (which your petitioners apprehend might be twenty years' purchase of the recorded land-tax), in consideration of which that tax might be held to be absolutely redeemed for ever; and your petitioners further suggest that certain encouragements to such redemptions might be granted, in the form of partial remissions of arrears; an official survey of every estate redeemed, with an official certificate and record of boundaries; and a public notification, in the Government Gazette, of the names of all who avail themselves of this law.

19. That your petitioners believe that it is the interest of the Government both to facilitate and to encourage such redemptions, not only because an immediate saving will follow in respect of a reduction of the establishments for collecting revenue, but also because they will introduce a new and highly beneficial element into the landed system.

20. That your petitioners desire to express their conviction of the necessity for the provisions contemplated by this Bill for the protection of under-tenures by registration.

21. That, in respect of ante-settlement tenures, your petitioners submit that the security provided by the Bill is simply an act of justice and good faith, required by the perpetual settlement; and that, as the proposed registration will be voluntary on the part of the talookdars, no satisfactory objection can be urged to it.

22. That, in respect of some tenures, (both ante-settlement and post-settlement tenures,) your petitioners apprehend that they largely partake of the character of English copyholds, but with additional disadvantages attending them; and your petitioners submit that all the principal reasons which have been stated for the enfranchisement of those tenures in England, apply with greater force in support of the proposition for protecting and fixing tenures of the same nature in Bengal.

23. That, in respect of post-settlement tenures, your petitioners understand that the intention of the Bill is to protect, by registration, all which have been, or may be hereafter created *bonâ fide;* that is, on which the rent reserved is fairly and duly apportioned to the entire land tax of the estate.

24. That it is objected to this proposed law, that the inquiry into this apportionment will be attended with impracticable difficulties.

25. That your petitioners acknowledge that such might be the case, were the total land tax of the estates exactly, or nearly exactly, equivalent to their total rental. But in fact it is notorious that the rental of zemindaries is ordinarily more than double their total land tax or sudder jumma; and in all such cases it appears that it would be difficult to err. Any careful collector inquiring into a lease could, in such circumstances, form a sufficiently accurate estimate of the fairness of the rent reserved—the sole object of his inquiry being its proportion to the sudder jumma or land tax of the estate, and the aggregate value of the estate being, as already stated, so great, as to afford a large margin to cover all probable mistakes. Placing the case on the lowest ground, your petitioners submit, therefore, that fraudulent leases, sanctioned and registered by the collector, (created too in the face of the provision which renders them liable to be annulled and avoided, at any time within 60 years, on the ground of fraud), are not likely to be so numerous as seriously to endanger the Government revenue.

26. That your petitioners feel it to be unsatisfactory to argue the question on this ground,

or to consider, in detail, the probable number of such frauds, or their united ultimate effect on the aggregate land tax. They respectfully submit that your Honourable Council may be expected to rely, for the security of the land tax payable to Government under the perpetual settlement, not on the exact accuracy of the collectors and ameens, but on the gradual improvement of the country and development of its resources. In most parts of Bengal the assessment was originally moderate; the progress of the country has rendered it light; and, with a further advance of society and a further rise in the produce, the fixed Government revenue will be trifling, compared with the value and extent of the cultivated soil. A country which, like Bengal, already feeds upwards of 40,000,000 of people already exports annually produce to the value of at least 15,000,000 *l.* sterling, and already receives annually upwards of 5,000,000 *l.* sterling in bullion, as the balance of its trade, after paying the greater part of India's tribute to England, and in which there are still boundless resources undeveloped, cannot long feel as a burden a land tax of three millions and a half.

27. That your petitioners believe that no part of that tax will be lost through the operation of the present Bill; but if some hazard is inevitable, they respectfully inquire, if fear lest part of this tax may possibly, under this Bill, be sacrificed by some fraudulent leases remaining undetected in their creation, and undisturbed during the whole succeeding 60 years, should be regarded as a sufficient bar to the enactment of a measure which not merely gives fixity and permanence to all under-tenures, old and new, and immediately encourages all improvement, but also affords the promise of an accelerated progress in wealth and prosperity, in the course of which all landlords may be expected to liberate their land altogether, without loss to the Government?

28. That when your petitioners inquire for the alternative if this Bill be rejected, they find a proposition to establish and fix under-tenures, but subject in the ultimate contingency of a Government sale to disturbance and re-settlement—a proposition which, in their judgment, differs from this Bill entirely in spirit and effect. The one condition and qualification annexed to this proposed amendment, must, they fear, check the operation and expansion of the system which they desire to see established, and tend to perpetuate the plague of doubt and hesitation, which is now effectual in restraining the investment of capital in land and development of the resources of the country. It interposes a possible partial loss of the Government revenue in a doubtful contingency, as an impediment to the destruction of a vicious system, which is ruinous to a large portion of the population and crushes them into degradation and misery.

29. That your petitioners regard another objection to this Bill, namely, that it will tend to the multiplication of small holdings, as altogether illusory. The existing system certainly has that tendency, because it checks the accumulation of capital in the farming classes; but the system contemplated by this Bill, if liberally expanded and carried out, will tend to the increase of wealth, and this, with other civilising causes, must lead to the investment of continually larger amounts of capital in land, and thereby to the consolidation of estates and the absorption of improvident and pauper proprietors.

30. That with these views your petitioners look with anxiety and earnest desire for the enactment of this proposed measure, but they are bound to state that they wish also to see additional measures carried with it.

31. That your petitioners believe that they have truly and accurately represented the condition of the cultivating classes. Your petitioners believe it to be true that, superadded to the evils they endure from a corrupt and inefficient police, and an administration of civil and criminal justice which confessedly requires extensive improvement, they are liable to be constantly harassed by the conflicting and unsettled claims either of contending shareholders of joint estates, or of contending neighbouring proprietors; by the severe laws of distraint and arrest; by the power of their superior landholders, whether zemindars or middle-men, to compel personal attendance at their pleasure; by illegal exactions; by the unfixed nature of their tenures; and by the prevalent custom of refusing both leases and receipts.

32. That for this class your petitioners believe themselves called upon to speak. Your Honourable Council receives petitions from many of those who consider their interests affected by this and other measures—particularly zemindars and indigo planters—and their representations reach the British Parliament. But the mass of the people—the cultivators of the soil, and those directly or indirectly dependent on them—are usually unheard and unrepresented. Yet your petitioners believe that the case of these numerous classes is such as urgently to demand consideration; and your petitioners, influenced by the desire that the British Government may be honourably distinguished in the blessed work of "showing mercy to the poor," and affected by a deep sense of the social wretchedness prevalent in the land, and the fearful obstacles which it presents, alike to the progress of enlightenment and truth, and the advancement of the material interests of the country, are constrained to appeal earnestly to your Honourable Council; and to entreat your Honourable Council so to legislate, as to afford hopes of new and better days; to secure, with the blessing of God, the public tranquillity, which is now endangered through the sufferings

and the irritation of the people; and to lay the foundations of general prosperity and freedom.

33. Your petitioners therefore pray your Honourable Council to pass the Bill to improve, the law relating to sales of land for arrears of revenue in the Presidency of Bengal, and to pass such other measures as shall be necessary for the emancipation and protection of the cultivating classes.

And your petitioners will ever pray,
(signed) *Alexander Duff*,
And 20 other Signatures.

APPENDIX

Referred to in the foregoing Petition.

On the desirableness of Commuting the Government Land Tax.

IT has long been the settled conviction of many missionaries labouring in Bengal, that the present condition of the rural population of that Province is not only a great impediment to the diffusion of Christianity in general, and to the development of a Christian character on the part of converts in particular, but also a social and political evil of great and growing importance, which, unless checked in time, must ultimately result in the universal prevalence of pauperism, servility, duplicity, and indolence. The causes to which the misery and degradation of the peasantry must be attributed are manifold; such as the long continued prevalence of Hindoo idolatry and Muhommadan oppression, of early marriages and the prejudices of caste; also the innate defects of the national character, and the density of the population. Causes like these cannot well be remedied by legislative enactments; but there is another which appears to admit of such a remedy, namely, the mutual relation between the zemindars and the ryots, to which the alarming deterioration of the peasantry must be in a great measure attributed, whilst at the same time it places the zemindars in a position which is calculated to prolong the evil to an indefinite period, without any prospect of improvement.

It would no doubt be an injurious as well as a difficult undertaking to attempt an abrupt and total abolition of the present zemindary and ryot system. The best means of providing a remedy for the actual state of things appears to be the application of a new principle to the tenure of land—a principle of such a nature that it should operate gradually and almost imperceptibly, and yet produce a beneficial change in the public mind, by leading the rural population to hope for that amelioration of their circumstances, of which at present they can see no prospect. It has long appeared to some men who have attentively considered the subject, that the principle of freehold tenure would be of such a nature, and that it might be introduced gradually, if an Act passed, allowing the commutation of the land tax; in other words, permitting capitalists to purchase estates, as opportunities might present themselves, by paying down, once for all, the capital which is represented by the Government land tax; with the understanding that estates, thus purchased, should never again be subjected to the land tax. The rate at which the capital might be calculated, could easily be fixed by a legal enactment. Supposing, for instance, that the land tax represents an interest of five per cent., the capital would be equal to 20 years' purchase. Or should it be thought that five per cent. is too low a rate of interest for India, the capital might be declared equal to the amount of sixteen years' purchase.

The capital represented by the land tax of Bengal is immense, amounting to more than 100,000,000*l.* sterling; and the number of capitalists ready to avail themselves of the contemplated arrangement would naturally be very small, especially at first. It is clear, therefore, that the operation of such an arrangement would be very gradual, and could not be productive of dangerous consequences.

The benefits would probably be considerable. The *bonâ fide* proprietors of freehold estates would naturally take a deeper interest in the profitable cultivation of the land and the general improvement of the neighbourhood, than can be expected of zemindars, whose tenure of estates is always more or less precarious, because if ever they fail to make the quarterly payment at the collector's office within the appointed time, the estate is put up to auction the next day, and disposed of to the highest bidder. The relation between *bonâ fide* landlords and tenants would be much less complicated, and therefore much less productive of animosities and disputes, than that between zemindars and ryots. Long leases might be given by a landowner, or portions of the estate sold out and out; and thereby a manly spirit of independence infused into the peasantry, to which at present it is an utter stranger. And if the boundaries of an estate, when thus sold out and out, were clearly defined by competent authority, the principal plea now advanced by zemindars in defence of their system of keeping up a body of clubmen would be neutralised; for they generally profess to hire these men, in order to settle, by physical force, the boundaries which the law has hitherto left unsettled in many parts of Bengal.

Appendix, No. 7.

It is very probable that a class of landholders, of a much better character, would be brought into existence.[*] At present, to become a landholder or zemindar is tantamount to involving one's self in endless litigation, besides running a great pecuniary risk. The purchaser of an estate must be prepared to contest numerous lawsuits with his neighbours, to keep in his pay a body of clubmen sufficiently powerful to overawe theirs, and to make two or three quarterly payments to the collector, before the estate has yielded him any income. It is owing to these difficulties that so few English capitalists have laid out their money in the purchase of land in Bengal, and that the few who have done so do not differ more in their character from native zemindars. These difficulties, again, have proved a great obstacle to persons who have wished to form Christian settlements, and from the nature of things they must continue a great hindrance to such designs. It is supposed that the introduction of the principle of freehold tenure would be very beneficial in this respect.

A commutation of the land-tax would not deprive the Government of any part of its revenue. The capital paid into the treasury by purchasers might be laid out in a number of ways equally productive. It might be applied to the reduction of the public debt, or to the construction of canals and railways, on which tolls might be levied: not to mention ordinary roads and bridges, in which Bengal is still so lamentably deficient.

There would, probably, be found some difficulties, at first, in the working of such a plan as that which is here suggested, but it is supposed that these would not prove very serious, much less insurmountable. The greatest difficulty, perhaps, would be that of dealing justly with the fair claims of those ryots who hold what is called paitrik (ancestral) land. It would perhaps be desirable to fix a rate at which such ryots might redeem their land from the zemindars.

Whatever may be thought of this particular proposal regarding the commutation of the land-tax, the following considerations will show that a change in the present system is desirable, or rather imperatively required.

The rent or land-tax which the ryots have to pay to the zemindar amounts on an average to about two rupees per beegah, or taking the beegah to be one-third of an English acre, to about 12*s.* per acre. Those who hold only paitrik land are more favourably circumstanced, because the rent for that does not generally exceed one rupee per beegah. But most of those ryots who hold paitrik land also hold land of a different description, for which they have to pay at the higher rate. And the rent for land which is fit for gardening or for being built upon, is higher than two rupees; so that this rate may fairly be considered as the average. It constitutes about 40 per cent. of the gross return in a good year. A beegah of land in a favourable year yields about five rupees. If the two rupees for rent are deducted, there remain three, which the ryot can call his own. It is believed that 12 beegahs is about the average amount which a Bengali ryot holds. The proceeds of that, after deducting the rent, amount to 36 rupees per annum. Out of this sum he has to provide food and clothing for himself and family, to keep his houses in repair, and to maintain the necessary stock of cattle and implements, besides paying for extra labour during the seasons of ploughing and reaping. Now it is barely possible for him to provide food and clothing with three rupees a month; but the means of meeting all other expenses must be derived from other sources, such as fishing or jobwork of various descriptions. All such sources are precarious and almost invariably insufficient. The consequence is, that the ryot is compelled to incur debt. The most common rates of interest at which he can borrow money from the zemindar or the money-lender, are three and four pice for the rupee per month, which are respectively an annual interest of 56 and 75 per cent. When about to plough his land, he is usually under the necessity of obtaining an advance of seed corn from the zemindar, to whom he has to repay it at the season of harvest with 50 per cent. interest, or for the twelvemonth with 80 per cent. interest. In this way he becomes more and more deeply involved in debt. And yet the basis of this calculation, five rupees as the gross return of a beegah, is, if anything, too high rather than too low. In the majority of years the amount realised is considerably less; for storms and inundations and droughts and murrain among cattle are calamities of frequent occurrence in Bengal; and seasons of sickness in the family are an additional source of difficulties.

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[*] The circumstances under which the writer originally drew up this paper, compelled him to confine his remarks exclusively to one subject. But he embraces the present opportunity for throwing out a few hints on some collateral topics. If Government really wish to encourage honest and conscientious men, and especially Europeans, to purchase estates in Bengal, the following improvements, among others, will be indispensable.

1. A comprehensive system of registration, the working of which should be entrusted to really able men. All documents relative to landed property should be registered; and when thus registered they should be regarded as authentic. Such a system has long been contemplated, but in order to be efficient, it should be accompanied by—

2. A thorough survey of the country, especially for the purpose of ascertaining the numberless disputed boundaries of estates. An able Government officer once remarked in a conversation with the writer, that "the reason why the Lower Provinces are called settled, must be, because everything in them (concerning boundaries) is unsettled, just as *lucus* is so called a *non lucendo*."

3. A "statute of frauds" should be enacted, declaring the prevalent practice of *benami* (anonymous or pseudonymous) possession to be illegal. The ostensible owner should be treated by the law as the real owner to all intents and purposes. The system of secret trusts, now prevalent, is a gigantic fabric of iniquity and fraud, to which the world probably cannot furnish a parallel.

4. The village police should be reformed. Its present state is infinitely worse than a state of utter inefficiency; it is so bad that one can scarcely venture to describe it.

A sub-division of the judicial districts is required. The scantiness of the means of communication throughout Bengal greatly increases the obvious disadvantages arising from the overgrown size and population of the present districts. Thousands of villages are situated at a distance of two or three days' journey from the magistrate's or judge's office.

The writer believes that the introduction of all these and similar reforms would be facilitated, and their efficiency increased, by the commutation of the land-tax.

The position in which the ryot stands to the zemindar is disadvantageous to both parties; but certainly more detrimental to the former than to the latter. The payment of rent for the current year, or of arrears, the repayment of advances of various kinds, and the payment of interest, constitute so many different heads of accounts between the two parties. Many estates are the joint property of a number of zemindars, of whom one may be entitled to one-half, another to a quarter, a third to the twelfth or sixteenth part of the proceeds. In such cases it is the usual practice for each shareholder to maintain a separate agency, and to keep separate accounts, so that every ryot has transactions with a number of landlords. In the majority of districts the zemindars give written receipts for the rent; but even there the ryot does not always find it an easy matter to obtain such receipts; and in some localities the zemindars never give them. It must be acknowledged that in innumerable cases the ryots are not only backward, but positively unwilling to pay; and the multiplicity or intricacy of their accounts, together with the fear (frequently well-founded) of being overcharged, constitutes an additional and very prolific source of disputes, which most commonly terminate in favour of the zemindar, although it is not denied that they occasion considerable loss to him also.

The position assigned to zemindars by the law is very peculiar. They are neither *bonâ fide* landowners, nor *bonâ fide* fiscal officers appointed to collect the land-tax. Perhaps the nearest approach to a correct description of their position would be to say that they are landowners, whose estates are mortgaged to Government, the mortgage being liable to be foreclosed, as soon as they fail to make their quarterly payments. They are almost all, however, in the habit of treating their ryots not merely as their tenants, but as their serfs. They call themselves rajahs or kings, and the ryots their subjects. They almost universally either claim more than their due, or else they claim it in an improper manner, for it is not easy to determine what really is their due. They exact contributions from their ryots when a marriage or a birth, or a death takes place in the family. They exact contributions for the avowed purpose of observing funeral rites in commemoration of their dead ancestors, and of celebrating the annual heathen festivals. These practices are almost universal. In numerous localities they exact from the ryots gratuitous labour in the field or at the oar; and compel the poor people to allow them, without payment, the use of their cattle or of their boats, if they possess any. It is not unusual, especially at a considerable distance from the civil stations, for zemindars to go still further in the abuse of their power, by inflicting imprisonment and torture upon any ryot who may have incurred their displeasure.

It is true that there exist laws of a most praiseworthy nature, which are intended to protect the ryot against unjust ejection from his tenure and against oppression generally; but these laws remain, to a great extent, a dead letter. Not to dwell upon the well-known fact that witnesses who will swear to anything can always be had in this country by the highest bidder, the ryot has very little money to spare for law suits. The advance which must be paid into court as a guarantee for the appearance—or *de facto* for the maintenance—of witnesses; the expense of a journey to the civil station, and of his own support, and that of his witnesses during their stay there, and the serious loss which such a stay must, at certain seasons, occasion to his property, and particularly to his crops: these are formidable obstacles to the ryot. He cannot, generally speaking, afford single-handed to contest a lawsuit with his zemindar, who possesses greater pecuniary resources, greater influence at head quarters, and greater experience in legal proceedings.

The powers with which the collector is armed, in order to enforce payment on the part of recusant ryots, are so great that they are a source of terror to the rural population. Some of the Government regulations, in which those powers are defined, are best known by the numbers which they bear. As an instance, that regulation which is usually called the seventh or huftum, may be mentioned. The enforcement of this regulation conveys to the Bengali ryot the same uncomfortable impression which is usually connected with the idea of being "quartered" or "decimated." When he sees that he is about to be "septimated," he makes every effort in his power to escape from his fate by flight, thereby risking the loss of all he possesses in the world. If these regulations were only enforced in those cases to which they were originally intended to apply, the evil would not, perhaps, be very great; but the zemindars frequently succeed in prevailing upon collectors (by false representations) to enforce them in cases to which they ought not to be applied at all.

In many cases the zemindars themselves are not aware of all the misery which is inflicted in their name upon the ryots by the agents whom they employ in collecting the rent. These middlemen are, in truth, the greatest tyrants. And as such middlemen would have to be employed by Government in case the ryotwari system should be substituted for the zemindari system, it is clear that such a change would not be of any great advantage to the ryots, probably of none at all. It is well known that the middlemen employed by humane European indigo planters, are in many cases as oppressive as those employed by native zemindars. What is wanted is, that the ryot should have direct access to his landlord, and that the interests of both should be the same. And this object would probably be accomplished, in process of time, if by legalising the commutation of the land-tax, the prospect of becoming freeholders was opened to capitalists.

It appears, therefore, desirable that the subject of the zemindari system should be examined into by the Committee now appointed by Parliament, and that this aspect of it should form a special topic of inquiry. The zemindars have taken measures to bring their grievance to the

Appendix No. 7.

notice of Parliament; but it is greatly to be feared that the grievances of ryots, which even in this country are not extensively known to Europeans, will be passed over in silence, unless especial attention is directed to them The contemplation of them has often caused the hearts of missionaries to bleed, and often led them to ask whether it is possible, in the present social condition of the majority of the population, for Christianity to take deep root in this country, and to produce those fruits of veracity, industry, prosperity, disinterestedness, generosity, and nobility of character, by which the Gospel is intended to become a blessing to mankind at large.

(No. 9.)

From the Secretary to the Government of Bengal, to the Clerk of the Legislative Council, No. 1296, dated Darjeeling, 11 April 1857.

Revenue.

Sir,

In continuation of this Office letter, No. 864 of the 8th December last, I am directed to forward, herewith, a copy of five letters from the Board of Revenue, as noted in the margin, in which are submitted the opinions and remarks of the Commissioners of Revenue in the Lower Provinces on the Lieutenant-governor's minute on the subject of the Bill to improve the law relating to sales of land for arrears of revenue.

* No. 494, dated the 9th December 1856.
* „ 22, „ „ 9th January 1857.
† „ 29, „ „ 16th „ „
„ 40, „ „ 23d „ „
* „ 60, „ „ 6th February „

I have, &c.
(signed) *A. R. Young*,
Secretary to the Government of Bengal.

From the Commissioner of Revenue for the Division of Rajshahye, to the Board of Revenue, Lower Provinces, Fort William, No. 208, dated 13 December 1856.

Gentlemen,

I have the honour to acknowledge the receipt of your letter No. 530 of the 9th instant, forwarding copy of one from Government dated the 1st October last, No. 696, together with a printed copy of the Lieutenant-governor's minute on the proposed new Sale Law, and in reply to submit the following remarks:

2. With reference to the 4th and 5th paragraphs of His Honour's minute, I would beg to observe that I am not aware of any special reasons why the district of Sylhet should be exempted from the operation of the proposed law. It is true that landed property is very minutely sub-divided there, but when I was in charge of that collectorship, many years ago, I found no difficulty in realising the revenue under the sale law then in force, Regulation XI. of 1822. Although the zemindars often withheld payment of the arrears due until the last moment, they almost invariably produced the money (sometimes only a few annas) when their estates were put up for sale. I am averse to any of the other modes of collecting the revenue, having seen in Cuttack how ineffectual the provisions of Regulation X. of 1818 were for the purpose, and how much oppression was occasioned by the "dustuck system" in that province.

3. I now proceed to consider the remarks of the Lieutenant-governor on Sections X., XI., XII., XIII., and XIV. of the proposed Bill.

4. I must confess that I am unable to see any valid reason for exempting shareholders under 50 rupees from a participation in the benefits proposed to be conferred on the whole body of landed proprietors by those sections; as justly remarked by the Legislative Council,‡ the object is to confirm the just rights of the sharer by securing his property when there is no default on his part, and a share paying 40 rupees may be of as much concern to the owner as are estates paying 40 lakhs of rupees to the rajah of Burdwan. I apprehend that the shareholders under 50 rupees constitute a much more numerous body than the shareholders above that limit, so that by admitting the latter only to the benefits of the law, we should be excluding the majority of the proprietary body from what all have an equal claim to, besides laying ourselves open to the imputation of legislating for the rich and not for the poor.

5. The suggestion of the Lieutenant-governor in regard to the omission from Section XII. of the direction to the collector to institute summary inquiry into the fact of possession, has however my full concurrence.

6. By restricting the benefit of the Bill to recorded shareholders we insure sufficient evidence of the fact of possession, which must, under the existing rules regarding dakhil kharij, have been ascertained before the name of the shareholder was recorded; a second inquiry on this point would therefore merely have the effect of opening a door for fresh litigation, besides giving unnecessary trouble to the collector.

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* These are mere transmitting letters and are therefore not printed.
† An extract of this letter has been printed.
‡ See Mr. Grant's speech on first reading, Proceedings vol. I, column 854.

7. It would be advisable, I think, to allow the privilege of opening separate accounts to those co-partners only whose names have been recorded in the collector's office with a specification of their shares, for where there is no such specification, an inquiry would be requisite on that point before the sharer of an estate held in common tenancy could be admitted to the benefit of the Bill. In such cases, there is generally a dispute among the shareholders as to the extent of each person's share, and it is the province of the Civil Courts, and not of the revenue authorities, to decide such disputes.

8. I see no objection to the Lieutenant-governor's suggestion that the collector be empowered to charge an agency commission on drawing and applying interest of Government securities deposited with him under Section XV. of the Bill, but I would not deprive the zemindars of the permission, which it is proposed to confer upon them, of making such deposits, which would unquestionably be a great boon and protection to absentee landholders.

9. I now proceed to consider the remarks of the Lieutenant-governor on the sections of the Bill which provide for the registration of under-tenures, and constitute doubtless the most important portion of it.

10. With regard to the "ante-settlement" tenures referred to in the first and second clauses of Section XXXV., I cannot perceive that any injustice would be done to the holders by requiring them to register with the view of giving them "absolute security" against the encroachments of all future auction purchasers of the entire estate; the process prescribed for registration is neither difficult nor costly, and the advantages which would be gained by it would infinitely more than compensate the holders for any trouble and expense to which they might be put in placing their title upon a permanent and secure basis, while the just rights of the purchasers of the estate would be maintained. I cannot think that, with such great advantages in view, any *bonâ fide* holder of such tenures would consider it a hardship to be compelled to register.

11. Neither do I see how the rights of these under-tenants can be affected by such process. It is true that it exposes them to litigation, but it does so once for all; whereas, at present, their title is liable to be disputed by every successive auction purchaser.

12. But the objection suggested in the 20th and 21st paragraphs of the Lieutenant-governor's Minute is not so easily got over. It certainly looks very like imposing a new as well as a severe penalty for arrears of rent, to declare these tenures to be absolutely voidable by the auction purchasers, if any arrear, however small, should happen to be due on the latest date fixed for the zemindar's payment to Government; such a state of things might happen without any fault on the part of the tenant, for the time for realising the rents due to the zemindar from his under-tenants does not always correspond with that fixed by the Government for the recovery of its dues, and it seems hard that such a penalty should attach to a default which may be purely accidental and unintentional on the part of the under-tenant. Under the existing law, the zemindar has the power of bringing certain descriptions of under-tenures to sale with their privileges intact, and annulling others after obtaining a decree for arrears. I think, therefore, that the words "and whereon no arrear of rent was due on the latest day of payment of revenue as fixed under Sections III. and IV. of this Act" might well be omitted from the first, second, and third clauses of Section XXXV. of the Bill.

13. I now come to the question of registering the tenures created since the settlement, which, as remarked in my report of the 15th April last, No. 256, seems to me to be "the difficulty" of the Bill. The Lieutenant-governor has placed in a clear and forcible light, the extreme difficulty, not to say impracticability, of carrying out the provisions of Section XXXVII. with the agency at present available. I see no such difficulty as regards the tenures referred to in Sections XXXV. and XXXVI., but I conceive that the scheme of registering all descriptions of under-tenures created since the settlement, after such measurement, survey, and local inquiry, as may be necessary to satisfy the collector that the tenure "was created in good faith so far as the interests of the Government revenue are concerned, and that the rent payable by the holder is not less than is fully sufficient to afford a fair proportion of the revenue assessed upon the parent estate," must be abandoned from the impracticability of carrying it out.

14. It might perhaps be sufficient to enact that all tenures created since the settlement of the estate shall hold as good against an auction purchaser, as against the former proprietor, provided they were created in good faith, and that the rent is sufficient to afford a fair proportion of the revenue assessed upon the parent estate; and to leave it to the civil courts to decide any questions that might arise regarding the auction purchaser's right to set them aside. In such cases, a report might be required from the collector, as is done with regard to suits instituted in the civil courts under Regulation II. of 1819.

I have, &c.
(signed) *F. Gouldsbury*, Commissioner.

From the Officiating Commissioner, *Burdwan* Division, to the Board of Revenue, Lower Provinces, Fort William, No. 193, dated Beerbhoom, the 17 December 1856.

Gentlemen,

I HAVE the honour to acknowledge the receipt of your Secretary's letter of the 9th instant, No. 530, forwarding copy of a letter from Government, together with a printed copy of the Lieutenant-governor's Minute on the proposed new Sale Law, and calling upon me for any further remarks I have to offer on the subject.

2. In reply, I would beg to say that I have no further remarks to make on the Bill in question, except that it seems to me, if I may be allowed to say so, that the Minute of the Lieutenant-governor on the subject is entirely unanswerable, and has completely exhausted the subject.

I have, &c.
(signed) *J. H. Young*, Officiating Commissioner.

From the Commissioner of Revenue, *Bhaugulpore* Division, to the Secretary to the Board of Revenue, Fort William, No. 137, dated Camp Booari, 30 December 1856.

Sir,

I HAVE the honour, in reply to your letter, No. 530, of the 9th instant, to give my opinion as follows on the points mooted in the Lieutenant-governor's minute on the proposed Sale Law.

2. Sections X. to XIV. will, if a limit is fixed, confer a great boon on shareholders, but if they are extended to those paying small sums, and if the collector is to institute a summary inquiry into possession, they will be productive of far more harm than good. Enormous establishments will be required to keep the accounts, and the proprietors will constantly be harassed by parties claiming to have their names recorded as separate shareholders, and consequent inquiries into possession and butwarras already far too numerous in some districts would become enormously increased. I would confine these sections to parties already recorded, or who may hereafter be recorded in the usual way, and the amount of whose revenue is over 100 rupees.

3. I am not aware of any serious objection to Section XV., as it probably will not be extensively worked.

4. With regard to Clauses 1 and 2, Section XXXV., they appear to me calculated to do great injustice and injury to the holders of tenures guaranteed against increase of rent at the time of the decennial settlement; and as to post-settlement tenures, unless Government are prepared to do the whole revenue survey over again, and much more minutely and correctly than before, and to add a large extra staff of collectors, deputy collectors, ameens, &c., for the purpose of settling disputes, calculating the assessments, &c., I do not see how the thing can possibly be done.

5. With regard to the proposals in paragraph 51 of the minute, it appears to me they are are very good as far as they go, but they do not in my opinion go far enough. I wish to see some provision restricting the rights of present proprietors to increase at will or by a suit in the civil courts, the rent of tenures held with or without documents at a fixed jumma for a certain number of years, say twelve, before the attempt to increase was made. This would be going very little farther than is proposed by the registry provisions of the Bill now before the Legislative Council, and it would be unattended with the evils which registry and proportionate assessment as proposed must entail on a very great number of under-holders and zemindars and on Government itself, while the Government revenue on the Lieutenant-governor's plan would always be secured.

6. I trust the superficial manner in which I have given my opinion will be pardoned in consideration of the fact that I am daily marching and have a great deal to do with the Sonthals, whose business I cannot now postpone for other work.

I have, &c.
(signed) *G. U. Yule*,
Commissioner of Revenue.

Extract of a Letter from the Secretary to the Board of Revenue, Lower Provinces, to the Secretary to Government of Bengal, No. 29, dated 16th January 1857.

Para. 2. The Commissioner of Dacca has no remarks to offer on the subject.

From the Commissioner of Revenue, *Patna*, to the Secretary to the Board of Revenue, Calcutta, No. 1351, dated 1st January 1857.

Sir,

WITH reference to your letter, No. 530 of the 9th ultimo, forwarding a printed copy of the Lieutenant-governor's minute touching the proposed new Sale Law, I have the honour to submit the following observations:—

2. In my former letter recording my views on the subject and expressing my approval of the Bill, I referred to the general principles and anticipated results of the proposed law, rather than to the facility of carrying out its provisions in practice, which was a point I did not touch upon; the minute of the Lieutenant-governor throws strong doubts upon the practicability of giving due effect to the provisions contemplated, at least without overwhelming the executive department.

3. In the arguments recorded by the Lieutenant-governor in the 8th and following paragraph, I fully concur. The concession now proposed is, beyond controversy, the concession of a privilege and not the restoration of a right, and the Government has indisputable right to limit that privilege by whatever bounds or restrictions public policy or convenience may dictate.

4. Whether, therefore, his Honour's estimate of the practical difficulties or injurious effects of the law be carried or not, I cannot doubt the wisdom of trying the law on what the Lieutenant-governor calls "manageable terms."

5. The effect of the law in encouraging excessive sub-division is a question which appears to me exceedingly difficult to solve.

I scarcely think it can be assumed that the privilege of separate payment and account will necessarily have this effect. On the point mooted in the 13th and 14th paragraphs of the minute, I concur in the expediency of dispensing with the summary inquiry into the fact of possession.

6. The recorded proprietor should be the person with whom the collector deals, and if this has, as it will, the effect of ensuring a more faithful representation, it will be in itself no slight benefit.

7. Not that I can fully concur with Mr. Theobald in his enumeration of the supposed perplexities as to the meaning and interpretation of the word possession.

8. Common sense would, in most of the instances cited by him, be a sufficient guide, but the inquiries would undoubtedly be embarrassing from their frequency, and unsatisfactory in their result, while the other criterion appears sufficient for the purpose.

9. On the subject noted in the 15th paragraph I do not feel myself competent to pass any opinion worthy of acceptance.

The question of the under-tenures, viewed in the light of the Lieutenant-governor's very able comments, assumes a very important aspect, and the several arguments urged against the Bill are beyond all question worthy of the most careful consideration.

10. I propose to consider the points *seriatim*.

Paragraph 17. If the Lieutenant-governor's reasoning in regard to the ante-settlement tenures is sound, the objection raised, as far as regards these tenures, ought to prevent the Bill from passing into law.

11. The argument, as I understand it, is that, because the law of 1793 conferred certain rights on the holders of these under-tenures, and declared the revenue payable by them to be fixed for ever, therefore it is unjust to call upon them in 1856 to register their tenures.

12. On the same grounds the condition and penalty in regard to arrears is condemned as a violation of the privilege formerly conferred.

13. As far as regards the registration, I cannot concur in this reasoning. I cannot believe that, because the Legislature of 1793 conferred permanent privileges on the holders of certain tenures, that therefore the Legislature of 1856 may not reasonably and justly, in pursuance of a great public measure (beneficial to these persons as well as to others), call upon them to establish by registration the rights then conceded; and as no legislation can be efficient unless penalties are attached to a neglect or disregard of its provisions, I consider these penalties as a necessary and indispensable part of the enactment.

14. That the fulfilment of this demand on the part of the Legislature may, in some or in many instances, entail counter-claims and consequent litigation, does not appear to me to affect the question.

15. The demand itself is reasonable, and if it be indispensable to the attainment of the important end proposed, the mere fact that a refusal to comply therewith will entail a forfeiture of privilege formerly granted, is not, I conceive, a sound or logical argument against it.

16. I would fully admit that the holders of these tenures are entitled to precisely the same exemption from violation of their recorded rights as are the proprietors of estates under the

permanent settlement, and that the Lieutenant-governor is justified in comparing their status with the status of such proprietors; but I would say that in the case of both I should consider the Legislature entitled to demand the discharge of a reasonable duty like that of registration, in the furtherance of a great national good.

17. The objection as regards the post-settlement tenures is not one of principle, but refers to the practical difficulties which will attend the execution of the law.

18. As before observed, in recording my opinion on the Bill, I did not carefully consider this part of the question, but highly approving of the principle and purport of the proposed law, I confined my observations to those questions; but it is impossible to read the remarks of the Lieutenant-governor on this part of the question without feeling that, if one-half of his assumptions are correct, the difficulty of carrying out the law will be appalling.

19. It makes a moderate man shudder to read the catalogue of perplexities which His Honour has arrayed as the concomitants of this enactment, and I am certainly not prepared to deny the accuracy of the anticipation, though I consider the list of horrors somewhat overcharged; and if the present law is to entail such consequence, I certainly think the provisions suggested by the Lieutenant-governor will be better calculated to secure the end in view than those of the Bill.

I have, &c.
(signed) *W. Tayler,*
Commissioner of Revenue.

Land Revenue.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal, No. 40, dated Fort William, the 23d January 1857.

W. Dampier, Esq.

Sir,

In continuation of my letter of the 16th instant, No. 29, I am directed by the Board of Revenue, to state that the Commissioner of Nuddea expresses his general concurrence in the sufficiency of the provisions which the Lieutenant-Governor has proposed for enactment in the 51st and 52d paragraphs of his minute.

I have, &c.
(signed) *E. T. Trevor,*
Officiating Secretary.

Revenue.

From the Commissioner of Revenue, 16th Division, to the Board of Revenue, Lower Provinces, Fort William, No. 267, dated Chittagong, the 26th January 1857.

Gentlemen,

I have the honour to acknowledge the receipt of your letter, No. 530 of the 9th ultimo, with a copy of a letter from the Secretary to the Bengal Government, accompanied by a minute of his Honour the Lieutenant-Governor, on the subject of the new Sale Law.

2. I have not had an opportunity of seeing upon what grounds the Board have objected to the supersession of Regulation I. of 1801, but the grounds are, I doubt not, very cogent, as they apply to the state of the Sylhet district, and it may be some few others circumstanced as Sylhet is. As regards the districts of this division, however, Regulation I. of 1801 has been inoperative since the enactment of the present Sale Law, and I am not aware that any inconvenience has been experienced by restricting the mode of collecting the revenue to the uniform procedure laid down in Act I. of 1845. Whether therefore Regulation I. of 1801 is retained or not, is immaterial as regards this division, but if its cancelment can be shown, as no doubt the Board have fully shown it to be likely to be attended with serious difficulties and evil consequences in other places, a good reason would certainly seem to exist why Regulation I. of 1801 should not be struck out of the statute book as one of the modes for the recovery of the Government revenue.

3. There has, I suppose, been found no one to contend that, whatever advantages may be derived by it, the registration of separate shares, as contemplated in Sections X., XI., XII., XIII., and XIV., will be unattended with the effect of throwing a vast amount of extra labour upon the collectors and their establishments. The principle of the measures contemplated in these sections is however so just, that it ought to be conceded to all, if such extended concession is possible. To extend the boon to every sharer while the establishments of the collectors are upon their present too limited scale would be impossible, but the law provides also the means of affording an increased establishment in that it lays down fees for registration. These fees cannot fail, I should say, to amount to a considerable sum in every zillah, and from this source, to which there will be a continued income, it would, I think, be found that the necessary number of extra hands to carry out the scheme of separate registration for all, would not be attended with that increased expense to Government which ought to be regarded as an obstacle to the introduction of a measure of such wide utility as that contemplated by the Act.

4. To encourage and extend a "pauper proprietary" is certainly objectionable; but can that be helped, and is it certain that the new law will have that effect?

5. The object of allowing shareholders to register their shares separately is that the just rights of all may be secured to all. If it is just to guard the large proprietor against the risk of being sold out by the default of his smaller co-sharer, the same consideration should also make us mindful of the poorer partner's interests. Neither the rich nor the poor partner, neither he whose share of the public revenue is 1,000 rupees, nor he whose share is but a few rupees, have any right, certainly, to demand that separate accounts shall be kept with them, and that they shall be saved from the consequence of a default on the part of either; but if the consideration of its being right is allowed to be a good plea in contending for the boon to the larger sharer, the same consideration cannot be otherwise than sound and good when the case of the smaller sharer is under consideration. Sub-division of estates must continue so long as natives are the owners of them, and it will never seem fair to the people that the poor proprietor, and the one therefore who most needs protection, and the rich proprietor, are not treated on equal terms. As we cannot prevent sub-division of estates, as we are bound in justice to put all like classes upon the same footing, it is better that we even charge each sharer with the cost of maintaining an extra establishment under the collector (if that be necessary), than that we refuse to recognise as equal the rights of every class of proprietors, and so put what the public would consider an unfair limit to a measure to the benefits of which all have an equal claim.

6. But it is much to be doubted whether, from the great advantages talookdars will derive by the provisions of the new Act, the sub-division of estates will not hereafter be much less common than they have hitherto been. A petty proprietor is now, and must always be very much in the power of his wealthier and larger co-sharer. The one collects or not just as the other likes; if the larger partner so determines, the smaller partner can realise nothing of the rents of his share: as it is, the insignificant proprietor is completely subservient to his more powerful co-proprietor. The latter can, without incurring any penalty, stop the collections of the smaller sharer, put it out of his power to pay his quota of revenue, cause the sale of his share, and ruin him.

7. Hereafter, when the new Sale Law comes into operation, a petty proprietor, being a part owner with a wealthy and large proprietor, would make a good bargain who got as an under-tenure some portion of the joint estate, and gave up his interest in the superior tenure altogether. As a talookdar he would enjoy all the rights of the zemindar within his property. There would be no divided authority; his tenant would be his own, and his tenure would be safe for ever if its rent was a fair one.

8. I think, then, notwithstanding that it may seem to encourage the sub-division of estates to admit each sharer to the privilege of a separate proprietor, this effect will be in a great measure counteracted by the other contemplated provisions of the Act, and that there is reason to suppose that the sub-division of estates into small shares among poor proprietors will be rather checked by the operation of the new law, than that it will receive a new impulse to farther progression.

9. The Lieutenant-Governor is of opinion, whether the plan of a limit be adopted or not, that the direction to the collector to make a summary inquiry into the fact of possession ought to be omitted from Section XII.

10. In dakhil kharij cases it does not need that a proprietor should prove what the extent of his share is to obtain the registration of his name: he is registered as a joint proprietor if he is proved to be in possession at all. In cases where a proprietor's name is recorded jointly with others, without specification of what his share is, some means must be devised to ascertain this: either no proprietor ought to be registered under the new law in regard to whose share, and the extent of it, there was any dispute, or some means ought to be provided for ascertaining what the extent is, if the inquiry into the fact of possession, that is the extent of the thing possessed, was a matter of manifest difficulty. I suggested in the 8th paragraph of my letter, No. 308, of the 19th April last, that the collector might be empowered to refuse registration, and refer the parties to the Civil Court for the determination of the matter. I still think, under all the circumstances, that this would be the most advisable course.

11. The Lieutenant-Governor also questions the expediency of allowing a zemindar to deposit money or Government securities with the collector, so that the amount or the interest upon the securities may be used in liquidation of balances.

12. I cannot doubt that such a measure would be highly beneficial to very many of the larger zemindars, and that it would frequently be taken advantage of. In the case of the Calcutta Government agency its abolition was no doubt based on good grounds; probably one of those grounds was, that in Calcutta no such institution on the part of Government was wanted by the public, but in the mofussil the public are not so independent. Dishonesty on the part of mofussil native agents being of such common occurrence, and there being no public agencies at mofussil stations capable of looking after the interests of constituents, it would, so it seems to me, be no more than a reasonable, humane, and politic concession to the wants of a very large and a very important class of the public, to allow every collector to act as an agent for absentee zemindars, for the drawing and paying of money deposited with him in liquidation of balances due from the estates of the depositors. This might, and

no doubt would tend to raise the value of Government securities, but I confess that I am such a poor politician that I am at a loss to understand why a Government should shrink from a measure, the effect of which was that it would make its paper of higher value in the market. The current price of Government securities is the test of the measure of the prosperity of Government, and unless undue means are used, it seems to me to be the duty of every Government to promote by all means the value of its own securities.

13. I see no objection why a commission fee should not be drawn by the collector upon sums paid into the treasury by him on behalf of the parties by whom they were deposited as security for the Government revenue, and to be applied towards its liquidation.

14. Sections 16 to 27 of the Lieutenant-governor's minute treat of the case of ante-settlement tenures, which the Lieutenant-governor is desirous of having exempted from the necessity of inquiry and registration.

15. What is now wanted by all descriptions of landholders is a certainty as to what they possess. Tenants and zemindars are now all alike in the dark in this respect. A man when he buys a zemindaree does not know what it consists of; a tenant is not safe for a day. It is to make each more sure and safe in his possession that the new law is devised. A man buying a zemindaree is not safe if ante-settlement tenures are not recorded. If you exempt these from the process laid down for all subsequently created tenures you leave open the door to no end of fraud. A zemindar contemplating the sale of his zemindaree as certain will make all manner of forged deeds in support of ante-settlement tenures to which he will assert his right and possession. In some he may succeed, and whether he succeeds or not the new purchaser finds he must incur the expense of several lawsuits before he can oust the fraudulent and fictitious ante-settlement talookdars, and that, unless he does incur this expense, he is unable to obtain the just rents of a great portion of his estate.

16. There is therefore no security for any one purchasing a zemindaree as to what he purchases if ante-settlement talookdars are to be exempted from showing their title deeds, as an obligation which is to be imperative on all other classes of talookdars.

17. The case of zemindars and talookdars I take permission to say is not analogous: a talookdar, of whatever sort, is liable upon the suit of the zemindar to be called upon to prove his right to hold his talook on such and such conditions. The zemindar cannot be so called upon to do anything of the kind. To make the zemindar subject to certain new conditions provocative of litigation, would be to infringe upon his rights, and it could not be done with any show of reason or justice. But in the case of the ante-settlement talookdars, the only hardship they suffer is in being made to do that at once which they are ever liable to be called upon to do, and this small wrong may surely be inflicted for the advantages it will produce.

18. In what the Lieutenant-governor says in Sections 29 to 48 I altogether coincide.

19. The Lieutenant-governor, in the 49th paragraph of his minute, recommends that tenures which authorise the holders to collect portions of the rent of each ryot shall not be considered entitled to registration as protected tenures under the Act. Such an exclusion would however, it seems to me, be an interference with the private rights of parties, without any very good cause. Say that a man living in a village not being able to rent the whole, wants to rent quarter of it as a talook. What's the objection to such an arrangement? True, it may be be more troublesome to the ryot to pay his rent in portions to two or three persons instead of to one, but his position renders him liable to this.

20. With the exception of the points above-mentioned, I consider that the draft which his Honour the Lieutenant-governor has drawn up on the subject of under-tenures is a decided improvement over the original draft Act, and that it will, as his Honour observes, "subserve all the essential purposes of the Bill" now under consideration, without incurring any of its most serious difficulties.

I have, &c.
(signed) *C. Steer*,
Commissioner of Revenue, 16th Division.

(No. 10.)

MINUTE by Mr. *H. T. Raikes*, Judge of the Sudder Dewanny Adawlut at Calcutta.

On the Bill "To Improve the Law relating to Sales of Land for Arrears of Revenue in the Bengal Presidency."

I SHALL not offer any remarks on the object and policy of this Bill, having merely considered its details with reference to the working of the law, in the Courts hereafter.

I observe that the same doubt and difficulty will exist under the provisions of this law as now exist regarding the effect of a decree of court annulling a revenue sale under the present law.

Section XXIX. of the draft contemplates the annulment of a sale for informality by decree of court, but it does not provide for the execution of such decree by restoration of the estate, though it prescribes that "execution of such decree must be obtained before six months after the date thereof, otherwise the party obtaining the decree shall lose all benefit therefrom." What is the meaning of "execution of such decree must be obtained." The decree can go no farther than to declare the sale annulled. It then merely places the old proprietor in the same position he held just before the sale was made; he is still a defaulter and a new sale may be made; but it seems to me he has no act to perform, which can represent in any way obtaining execution of his decree. What then is he expected to do? The section goes on to say, "and when execution of such decree is duly obtained, the party obtaining it shall not be restored to possession until any amount of surplus purchase-money that may have been paid away, &c. &c.; and if such party shall neglect to pay any amount so recoverable within six months from the date of such final decree, he shall lose all benefit therefrom." To make this intelligible it should be explained how the decree-holder is to be restored to possession, as the court passing the decree can apparently do nothing either on its own motion or on the motion of the decree-holder. To give the intended effect to this section, it seems to me necessary that the law should declare the courts competent to annul sales if made in contravention of the provisions of the Act, and also to restore the estate to the defaulter on the conditions inserted in the section, provided the decree-holder applies to the court to give him full execution of his decree according to the exigency thereof within the period stipulated.

The only other point I would refer to is that Section XXXV. give us now the power of sweeping away all incumbrances created between settlement and sale. But I do not understand how this privilege is to be exercised when the purchaser is one of the class described in Section XI. Under the rule laid down in that section his own share is reserved, while he may purchase the remainder of the estate under Section XIV. What is the position of the tenantry who are probably holding under all the sharers who were then joint landlords? Does the sale give the sharer who purchases, the right of ejectment and enhancement over the portion or share of the estate purchased, or over the whole? I should say, as far as the law provides, such right would extend only to the newly acquired shares. The purchaser would then be in a singular position with respect to a tenant who had held under the joint proprietors; he might be ejected to the extent of the share purchased and could not be meddled with as to the remainder reserved to the purchaser.

13 March 1857. (signed) *H. T. Raikes*, Judge.

(No. 11.)

From the Member of the Legislative Council for Bengal to the Junior Secretary to the Government of Bengal, dated Fort William, 3 September 1856.

Sir,

In accordance with the opinion expressed by his honor the Lieutenant-Governor in your letter of the 7th July, I have abstained from making any attempt to proceed with the Sale of Under-tenures Bill. It will lie over until the Select Committee appointed to consider the Sale Law Amendment Bill shall have made their report on the resolution referred to them on the motion of Sir James Colville, relative to the protection of under-tenants of the second and inferior degrees against the consequences of a sale of the superior tenure for arrears of rent.

The Select Committee has as yet held no meeting. When the remarks of the Bengal Government on the proposed amendment of the sale law shall have been received, it will doubtless proceed at once to settle that Bill. But I do not think that it will be in a position to deal with the important question referred to it respecting tenures of the second and inferior degrees, until it is furnished with some information as to the extent to which such tenures prevail, their peculiar conditions, and the practice as respects their treatment on a sale of the superior tenure for arrears in the several districts of these provinces.

It is of course well known that the greater part of the land in Burdwan and Hooghly is let in putnee; that the putneedars have very generally granted under-leases to durputneedars, who again have sub-let to se-putneedars, and so on; and that the same state of things prevails to a considerable extent in Nuddea and some other of the neighbouring districts. The conditions of these sub-tenures and the effect upon them of a sale of the superior tenure are ascertained by law. It is also known that in the districts of Backergunge and Bhullooah there is very commonly, under the talookdars, a chain of Ousat talookdars, howalahdars, neem-howalahdars, &c.; and I have obtained some information of the condition on which these sub-tenures are held and the practice which obtains respecting them in case of sale. But I have no information as to the extent to which the practice of sub-letting may prevail in other parts of the country. There may probably be tenures subordinate to the talooks of Dacca, Tipperah, and Mymensing, to the jotes of Rungpore, the gantees of Jessore, the tickahs and chuchs of the 24-Pergunnahs, the mokuddumees of Cuttack, and the mokurrarees and shickmee talooks of Behar; but without some knowledge of the conditions of such sub-tenures, of the practice which may obtain respecting them in case of sale, and especially of the extent to which they may prevail,

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prevail, it will, I apprehend, be impossible for the Select Committee to make a satisfactory report or one upon which any practical measure could be based.

Should the Lieutenant-Governor concur in this view, he will probably think it advisable to direct the Board to call upon the several Commissioners for information on the points above indicated, in order that it may be available to the Select Committee when they come to consider the question referred to them.

I have, &c.
(signed) *E. Currie*,
Member of the Legislative Council.

From the Secretary to the Government of Bengal, to the Member of the Legislative Council for Bengal, No. 13, dated Fort William, 6 January 1857.

Sir,

REVENUE.

WITH reference to your letter dated the 3d of September, I am directed to forward herewith a copy of a letter, No. 503, dated the 19th ultimo, and of its enclosure, from the Officiating Secretary to the Board of Revenue, on the subject of under-tenures in the districts of the lower provinces.

I have, &c.
(signed) *W. Grey*,
Secretary to the Government of Bengal.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal, Revenue Department, No. 503, dated Fort William, 19 December 1856.

Sir,

LAND REVENUE.
W. Dampier and H. Stainforth, Esquires.

IN reply to your letter of the 10th September last, No. 636, I am directed by the Board of Revenue to submit herewith a copy of an abstract of the returns from Commissioners to the circular issued by them on the 17th idem, calling for the information relative to under-tenures required by the Legislative Member of Bengal. The further report promised by the Commissioners of Rajshaye, Cuttack, and Bhaugulpore, will be forwarded on receipt.

2. The information given is of necessity defective, except for the district of Cuttack, where the under-tenures were defined and registered at the settlement, and the Board fear that fuller information cannot be obtained without great loss of time, and, with reference to the apathy and unwillingness of zemindars generally to let the state of their property be known, would, if obtained, be far from trustworthy.

I have, &c.
(signed) *E. T. Trevor*,
Officiating Secretary.

Abstract of Returns to Board's Circular, No. 29, dated 17 September 1856, on the subject of the Number and Conditions of Under-Tenures in Bengal, and the mode in which they are affected by the sale of the Parent Estate for Arrears of Revenue.

Commissioner of Burdwan, 20th November 1856, No. 164.

THE officiating Commissioner of Burdwan, Mr. J. H. Young, says that the exact number of tenures in each district cannot be ascertained without great delay, and, when obtained, would not add much to the sort of information required by the Legislative Member of Bengal.

The following memorandum has, however, been compiled from the best information available to the Collectors.

———	Putnees.	Dur-putnees.	Seputnees.	Chahar-putnees.	Putees.	Tahootdaree.	Mokurree.
Burdwan -	1,960	500	250	100	85	—	—
Beerbhoom -	436	1	4½	- -	- -	5	1
Hooghly -	424	589	—	—	—	—	—

The numbers for Bancoorah and Midnapoor are not given. Of the Hooghly putnees, five pay revenue into the 24-Pergunnahs' treasury, as well as all the durputnees.

In Burdwan, about 14–16ths of the land may be estimated as being let out in putnee, more than 13–16ths of the malgoozaree area belonging to the Rajah. There are not at present any tenures below chaharputnees. In two pergunnahs, there are a few tenures styled putee, a word which the Collector considers a corruption of petee and identical in meaning with shikmee. These tenures existed prior to the decennial settlement and their area and the jumma paid to the zemindar are on record in the Collector's office. The holders are *quasi* shikmee talookdars paying their quota of the Government revenue to the recorded proprietor who is responsible to Government. As long as the fixed demand is paid, the tenures cannot be sold, and they are not liable to be cancelled on the sale of the zemindaree for arrears. A purchaser of a putee may at any time apply for mutation of names—when sold, the sales are not under Regulation VIII. of 1819, but under Act VIII. of 1835, and the purchasers succeed to the same rights as the former proprietors.

In Bancoorah, there are other inferior tenures as jumma pottah, jote, khoorfa or durjote, and the bhagjote or equal division of produce between the leaseholder and cultivator. The leases are generally granted for an unlimited term, and the tenures are liable to an increase of rent.

The tahootdaree tenures in Beerbhoom are liable to be sold on the sale of the estate to which they belong.

The Collector of Midnapore reports twelve different kinds of out-tenures in that district; namely, 1 kharposhie, 2 shikmee, 3 putnee, 4 durputnee, 5 mourosee yara, 6 maiadee yara, 7 kutkeena yara, 8 soodbooktan yara, 9 nizjote kundarra, 10 jotepottah, 11 jungle booree aymah pottah, 12 koordah lakhiraj bazeaftee, all of which are affected by the sale of the superior tenure. The putnee and durputnee are found in Midnapore proper only; the others prevail in Hidjellee also.

Commissioner of Dacca, 28th November, No. 153.

Seven descriptions of sub-tenures are reported in Dacca, namely, 1 putnee, 2 durputnee, 3 suputnee, 4 shikmee, 5 shikmee howla, 6 morasee pottah, 7 mussakushee pottah. The effect of a sale of the superior tenure on the first three is declared in Regulation VIII. of 1819. The remaining four are described to be tenures granted by the zemindars with or without a consideration, and, unless they existed for a period of 12 years prior to the decennial settlement as provided in Section XXVI. Act I. of 1845, are liable to be annulled by an auction purchaser at a sale for arrears of revenue. The Collector is unable to give even an approximation to the number of under-tenures in the district from the difficulty of communicating with the proprietors of the 8,460 small estates of which the district is chiefly composed.

Seven kinds of under-tenures are reported in Mymensing, 1 mourosee shikmee, 2 durshikmee, 3 mokureree shikmee, 4 pottae, 5 putnee, 6 kaim chuck, 7 kaimjote. The first three are stated to be protected under Section XXVI. Act I. of 1845. Nos. 4, 6, and 7 are tenures liable to be annulled in the event of a sale for arrears of the superior tenure. No. 5 is provided for under Regulation VIII. of 1819. The Collector's records afford no data for ascertaining the extent to which under-tenures exist, and the information could not be obtained from the landholders without great delay and difficulty.

In Sylhet, the sub-tenure system does not prevail. In one pergunnah only about 30 putnees have been created by the proprietors. There are about 75,000 estates on the rent-roll, and the custom of the district is for proprietors not to create under-tenures but to dispose of portions of their interest by sale or otherwise, thereby creating innumerable co-sharers. In some instances the unrecorded shikmee sharers amount to no less than 800. These shikmeedars are not tenants of an inferior degree, but joint-sharers in the superior tenure and responsible for the Government revenue.

In Backergunge the following sub-tenures are reported to exist: 1 shikmee, 2 oosut, 3 neem oosut, 4 howlah, 5 oosut howlah, 6 neem oosut howlah, 7 teem (qy. neem?) howlah, 8 meeras malgoozaree, 9 putnee, 10 durputnee. A peculiar feature in this district appears to be that, generally, as many as six grades of tenants intervene between the zemindar and the ryot, though it occasionally happens that the zemindar, passing over the talookdaree grade (the first three), creates at once a howladaree tenure, and in such case the sub-tenures are reduced to three. All the sub-tenures above noticed are subject to sale for arrears of rent under Act VIII. of 1835, but a purchaser succeeds only to the right possessed by the defaulting talookdar or howladdar, as the case may be, and cannot interfere with the tenures subordinate to the tenure which he has purchased. All the tenures above described, save such as may be protected under the provisions of Act I. of 1845, fall on the sale of the superior tenure for arrears of Government revenue. The few putnees and durputnees in the district are subject of course to the provisions of Regulation VIII. of 1819.

The deputy-collector of Furreedpore has not been able to obtain the necessary information from the zemindars, and has therefore submitted no report. The omission, the Commissioners observes, is not of much consequence, as all the permanently settled estates in Furreedpore are on the Dacca rent-roll.

Officiating Commissioner of Nuddea, 28th November, No. 329.

In three years, 252 applications have been made in Nuddea for sale of putnees, but as applications are made twice a year, and putnees not in arrear are not included, the above number cannot be taken as the number of putnee tenures in the district. On reference to the dehabundee or chowkeedaree register of the magistrate's court, out of the number of 2,934 villages in the district, 1,246 are held khas, 1,094 in putnee, 45 in durputnee, 527 in ijarah, 17 in gantee, and 5 in mourosee. It is not said in what year the register was prepared, or

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how far it can be depended on; if it be correct, three-fifths of the villages in the district are held on under-tenure.

The Collector of Jessore describes the gantee tenure as most frequent in that district. durputnees and durgantees are few, and seputnees and segantees fewer still. In one large estate there are 2,000 ganteedars paying a jumma of 200 rupees and upwards, and 80,000 paying under 200 rupees; the latter are called kaimee. The ganteedar, the Collector says, can exist immediately subordinate to the zemindar, the putneedar, the durputneedar, or the seputneedar, and is generally considered to reap by far the lion's share of the profits, and therefore seldom commits his interests to a durganteedar. Of course his most advantageous position is immediately under the zemindar, for when a zemindar has once given his land in gantee he cannot in any way enhance the rents, and it frequently happens that the ganteedar may be collecting rents ten times the amount which he pays to the zemindar. Should, however, the zemindar subsequently let out the land in putnee, his agreement with the zemindar is no longer a protection to him, except to keep him in legal possession, for the putneedar can re-measure the land and raise his rents accordingly. The same thing may be done by the dur and seputneedar. The holders between him and the zemindar may get rid of the ganteedar by being so severe on him as to compel him to retire, apart from the collection of rents; the ganteedar has other privileges, such as receiving fees for every marriage, birth, or death amongst his ryots. Where dur and seganteedars do exist, they have the same privileges also, but in a less degree. The bonus paid to the zemindar for a putnee tenure appears to be generally 2½ year's jumma. Indigo planters are mentioned as holding land generally in farm.

The records of the 24-Pergunnahs do not furnish materials for giving the number of under-tenures in the district. One of the most common is the ticca tenure, which is a ryotee tenure, and the holder of which pays rent direct to the zemindar. Very few ticcadars hold pottahs, but their right is recognised by their neighbours and the zemindar. The tenures may be sold for arrears of rent, are recognised in civil courts as being liable to mortgage, may be transferred by gift or willed away, and, unless proof of possession can be adduced for 12 years before the decennial settlement, the right and title to the tenure is forfeited by the sale of the estate for default of revenue. Three species of ryotee tenure may be classed under the ticcadar; the kurfadar, the durkurfadar, and the sekurfadar, who hold their tenures under the ticcadar by virtue of a pottah and cultivate the soil, the sekurfadar being subject to the durkurfadar in the same rates as the durkurfadar is subject to the kurfadar, and the last to the ticcadar. If the latter's right preserve him from the effect of a sale of the zemindaree, then do the holders of the three above-mentioned under-tenures also escape injury. The chuckdaree tenure is a permanent one, and to be met with only in this district, in Jessore, and in Backergunge.. These tenures are issued by the Soonderbuns grantees, and given principally with a view to the clearing of jungle at the expense of the chuckdars. The holders retain their rights though the grant in which they are situated may be sold, and the new purchaser cannot enhance their jumma. Deputy Collector Shib Chunder Deb, who has long been in the district, says, the extent to which the ticca tenure prevails is limited, or about $\frac{1}{30}$th of the culturable area of the district, many tenures having been resumed by the zemindars, or having lapsed for want of heirs strong enough to maintain themselves.

The Collector of Moorshedadad describes the mourosee holdings of that district as consisting of jotes and gantees, chuck jummas, chowbiggas, and sebiggas. These, he says, are farms held on hereditary leases with a fixed jumma, and if created prior to the decennial settlement are not liable to enhancement, and are not affected by sale of the superior tenure. Chowbiggas and sebiggas are small holdings let at four and three biggahs per rupee; they are ancient tenures, originally rent-free, but resumed and settled at those rates in consideration of past services; more particular information, the Collector says, would require many months to collect.

The Commissioner has received no report from Baraset, Mr. Eden having only lately taken charge.

The commissioner (Mr. Grote) remarks that such information as is required by the legislative member could hardly be picked up even by an intelligent and attentive Collector after having been a year or more in the district. The manner in which the sale law affects under-tenures could only be known in the event of a purchaser suing summarily a tenant of the second degree, or distraining his property for a higher amount than had been agreed on between the tenant and his predecessor, and such cases seldom occur. Of 104 calls made on the Moorshedabad landowners, only 23 were imperfectly answered, and three Nuddea proprietors declined to furnish any information. Valuable information should however be forthcoming from the records of estates which have come under the Court of Wards, or under khas management, and which have been subjected to butwarrah or settlement. Mr. Grote concludes his report with the following partial statistics of some estates:—

"Such returns, however, as were made to the calls of the Moorshedabad and Nuddea Collectors give the following information. In the latter district 157 returns, representing, I presume, as many estates, gave an aggregate in the latter of 80 putnee, 24 ijarah, seven gantee, and 58 mocureree tenures. Mr. Lyon holds in ijarah all his lands in Moorshedabad, and adds, 'there are no putnee mouroseejotes, or other under-tenures within the lands with which I am connected, and, so far as I am aware, there are comparatively few such, with the exception of putnees, in the immediate vicinity of the banks of the Ganges.' Mr. Bishop, for Messrs. Watson, says that Hoodah Ecoonee, a large estate belonging in part to the

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the latter, is divided into 34 putnees, three ijarahs, and 18 gantees, and that Rokunpore, another large estate of theirs, is all in putnee. Mr. Larruletta has let in putnee the only estate he has. I annex the original letter* of Baboo Poolinbeharry Sein, which is fuller than any other of the replies, and gives some interesting information on the subject of the prevalent under-tenures. Rajkissen Raie, another zemindar, returns about two-thirds of his villages as being farmed, while the rest is khas.

"12. The general complaint of the European landholders in Moorshedabad, whose letters I have perused, is the want of security for putneedars against sales of estates for wilful default, and this want will be amply supplied if the original Draft Act proposed by the Bengal Government becomes law.

"13. So far as my experience goes, I believe that in practice few subordinate tenures however old and good their titles, maintain themselves after the sale of the tenure on which they depend. The profits of such subordinate tenures must be in many cases too inconsiderable to render it worth the tenant's while to litigate in the Courts with the superior tenant, who again may, if strongly tempted, combine with the zemindar and sacrifice his own tenure in order to break up a really valuable subordinate tenure.

"14. In the 24-Pergunnahs the ticca tenures are I know extensively sublet, the sub-tenants being generally of the class referred to in Clause 3, Section XXVI. Act I. of 1845. The small estate of Gobind Chunder Dutt, under the Court of Wards, in part consists, I find, of 251-15 biggahs of ticca land for which the minor ticcader pays an annual rent of 70 rupees 8 annas to different zemindars, while the rents payable by his sub-tenants are entered in the accounts of the estate at 510 rupees.

"15. In law the subordinate tenure, if the *bonâ fide* creation of a ticcadar protected by Clause 1, Section XXVI. Act I. of 1845, would, I imagine, stand under any transfer of the superior tenure."

Baboo Poolinbeharee Sing, in his letter to the officiating Collector at Moorshedabad referred to in paragraph 11 of the above extract, says that his zemindaree, and generally most others, contains the following classes of under-tenures:—1st, putnee, durputnee, and seputnee, the nature and conditions of which are well known. 2d, ijarahs and durijarahs or farms and under-farms, the nature and terms of which are also well known. 3d, mourosee ijarah, or farm held on a hereditary lease with a fixed jumma not liable to enhancement, provided the creation was anterior to or at the time of the decennial settlement. 4th, chuck jumma, or a certain quantity of land held in the lump at a fixed rent assessed without reference to prevailing rates. 5th, jote jumma. Most of the lands in most zemindarees are held in jotes under the following denominations—(1) Istemraree or mokureree jotes are hereditary tenures held at a fixed rent provided they were created more than 12 years before the settlement. Like the chuck jummas, these tenures comprehend lands of all descriptions, and may be considered as small putnees. (2) Jotes consisting of one or more biggahs of land, generally culturable, held at a certain rent, liable to be increased on re-measurement of the village. 6th, charbiggas or land held at four biggas a rupee, sebiggas or land held at three biggahs a rupee. Those tenures created before the decennial settlement are not open to resumption or enhancement of rent. Of the above descriptions of tenures, those created prior to the settlement are not so liable to enhancement of jumma, unless on a general measurement of the pergunnah they be found to comprehend more lands than the pottah specifies. In private or decree sales these tenures are not liable to enhancement, but under the sale law all the tenures, especially those of recent creation, are cancelled by sale, and the occupants may be ousted at pleasure by the auction purchaser. The mokureree, or istemraree jotes, and those that existed before and at the time of the decennial settlement, are the only ones that cannot be cancelled. Not having received returns from his zemindarees in several districts, and having no register of the under-tenures existing within, he cannot speak to the number of such in his estates, but in the portion situated in Moorshedabad one mehal has been let in putnee and one in ijarah.

Nuddea, 9th December 1856, No. 342.

Extract from letter from Deputy Collector of Baraset, who reports the existence in his jurisdiction of—1st, perpetual gantees or tenures under the zemindars which are saleable for arrears of rent as well as in satisfaction of decrees. They are transferable tenures, but the tenant does not lose his right on the sale of the zemindaree. 2d, durmourosee gantees, these are granted by the ganteedar in perpetuity, and are not affected by the sale of the superior tenure. 3d, chucks, these are held under the zemindar for the purpose of clearing jungle. They are saleable by the holder at pleasure, but are not affected by the sale of the zemindaree. They may be sold for arrears of rent or in satisfaction of decrees.

Chota Nagpore, 24th November 1856.

In Lohardugga there are only two estates, namely, Chota Nagpore and Purgunnah Palamow, the latter a Government purchase. The four largest under-tenures in the Chota Nagpore zemindaree are the jaghires of Boondoo, Burway, Sillee, and Tamar, created apparently before the British Government. These estates consist of from 80 to 250 villages each, and the jaghiredars pay a fixed rent to the Maharajah. Succession is strictly according to primogeniture in the male line. In each jaghire there are several sub-jaghires, some created by the jaghiredars, and others by the Maharajah of Chota Nagpore. The latter are not numerous though very ancient and probably anterior to the jaghires, to which they are now attached. In the Tamar jaghire, where the inhabitants are chiefly Coles, almost all the under-tenures are held by mankees and moondas, who are in fact the proprietors of the soil. The moondas hold from two to ten villages, and over every four or five moondas there is a mankee. The moondas pay a certain fixed rent to the mankees, who make a proportionate fixed payment to the Rajah of Tamar. Most of the Cole tenures are of very ancient origin, though there are no written title-deeds. Similar tenures are found in other pergunnahs, especially Sonepore. Besides the above four large jaghires there are about 600 smaller ones in the Chota Nagpore zemindaree. Some of these jaghiredars hold only a portion of a village; but the tenures of others consist of as many as 150 villages. All pay a fixed rent to the Maharajah, and are hereditable in the male line. To almost all, conditions of service are attached, which are sometimes enforced and sometimes not. Several of these jaghires were created before the settlement, but the majority of them are believed to be posterior to that event. Within the larger jaghires there are sub-jaghires, but the number is not known; a few jaghires are for life only, but such tenures are rare. In every part of the same zemindaree there is a large number of petty bhoocharee tenures. The bhoocharees are descendants of the rude race which first cleared the jungle; their tenures are rent-free, but they are bound to render service to the Maharajah or the farmers holding under him. In purgunnah Palamow, a khas mehal, there are 130 jaghiredars and 102 hereditary ijarahdaree tenures, the remainder of the pergunnah consisting of khulsah villages leased to farmers for a fixed term. Most of the jaghirees are held under conditions of service, and they, together with the hereditary ijarahs, pass to male descendants. After the purchase by Government, many of these tenures became by law liable to resumption, but the under-tenants were confirmed in their rights by Government. As the sale law is not likely to be introduced into this province, the Commissioner does not deem it necessary to enter into the question of the effect of the law on these under-tenures.

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* *See* an abstract of the information contained in this letter following this extract from the Commissioner's report.

In Hazareebagh there are 5,858 under-tenures of different kinds, and probably more of a small kind, of which nothing is known. In the large estate of Ramgurh there are 3,289 recorded under-tenures of various sorts. There are jaghires granted for the maintenance of the members of the Ramgurh family, which have been held for generations; most of them on conditions of service, which have of late years been seldom enforced, and most of them pay only very small quit rents. There are in the same estate 22 rent-free tenures exempted at the time of the settlement. There are also several khyrat tenures not recorded in the Principal Assistant's Office, and probably created since the settlement. There are also several service jaghires held under the condition of guarding the ghâts and jungle passes. Some pay a small quit-rent; others, in places where the service is considered of the most importance, are held rent-free. About one-third of the Ramghur estate is held in jaghirdaree and rent-free tenure of different descriptions; the remaining two-thirds are in the zemindar's own hands, who lets portions in farm. In pergunnah Kurrackdia there are 2,114 under-tenures, of which 76 are rent-free mehals not assessed at the permanent settlement. Most of the oldest tenures in this pergunnah have been granted for the maintenance of the relatives of the proprietors of the guddees, but few under-tenures in this part of the country were in existence at the time of the settlement. There are a few farms for undefined periods given at low rates to money lenders, but the farms of villages are mostly for a limited number of years. In pergunnah Kendie there are 141 different under-tenures. A few are khyat and maintenance tenures, but many of the villages are farmed to persons who have lent money to the proprietor. In the confiscated mehal pergunnah Koderma, there are 94 under-tenures all leased to the heads of villages. In the rent-free feudal tenure of Koonda there are 220 under-tenures, some of which are khyrat and service tenures, but the most common under-tenures are farms for short periods.

In Maunbhoom there are a few putnee talooks and still fewer durputnees, the majority being in the Pachete zemindaree and of recent origin; but Regulation VIII. of 1819 is never put in force in this division. The zemindars realise rents by summary process and attachment. There are jaghiredars paying a small fixed rent to the zemindars, shikmee zemindars, mookurereedars, and durmokurereedars; also a few mankee and moonda tenures like those of Chota Nagpore, some of which are of very ancient origin. There is, however, a large number of police ghat-walee tenures, the tenants performing police service and paying a small quit-rent to the zemindars. Many of these ghat-walee tenures were in existence before the settlement.

In Singbhoom is the Dhulbhoom estate, the Rajah of which owns the whole pergunnah of Ghatsillah, with the exception of the ghat-walee and rent-free tenures therein. Each village is held direct from the zemindar, either in perpetuity or for a specified term, the tenant being styled purdhan. A purdhan rents one or more villages; occasionally a large village is divided amongst two or more purdhans. The purdhan is remunerated by a certain quantity of the best land in the village, held rent free. He cannot be ousted during his lease as long as he pays the stipulated rent. When the Rajah grants a lease of a turuff consisting of several villages to a farmer, the latter cannot interfere with the arrangements made with the purdhans, who pay their rents to him instead of the zemindar. When the zemindar creates a mokureree tenure, the mokurereedar acts as purdhan in his own tenure. The putnee tenure is unknown in the Dhulbhoom estate; the purdhanee system prevails everywhere, and there are no intermediate tenures of any kind. In Sonthal villages the purdhan is called manjhee, and in Cole villages moonda. Some of the ghatsillah, jaghiredaree, and ghat-walee tenures are of very ancient date; but there is no record of them in the Singbhoom office.

Rajshahee, 29th November 1856, No. 188.

The following tenures prevail in Bograh: 1 muzkooree talook, 2 shikmee talook, 3 istemraree jote, 4 istemraree talook, 5 mukuree chuck jumma, 6 mukooree jote, 7 mourosee jote, 8 mourosee ijarah, 9 putnee talook. The first two were created before the decennial settlement, and the others were made since by the zemindars on condition that the lessee and his heirs are to hold them at a fixed rent in perpetuity; no sub-tenures of any description in this district, except durputnees, which are few in number, and the rights of sub-lessees are liable to be affected by the sale of the superior tenures under Regulation VIII. of 1819.

In Dinagepore there are only about ten putnee talooks; but there are a great many istemraree jotes, all of which are affected by the sale of the superior tenure.

The under-tenures in Rajshahye are chiefly putnee and mourosee or permanent jote. The latter is subdivided into seven denominations: 1st, mourosee jote; 2d, mourosee ijarah; 3rd, mussurkus; 4th, mutkudamee jote; 5th, chuck jumma; 6th, shikmee talook; 7th, mooktah ooperpatta jote. These distinctions are, however, merely nominal. The extent of the under-tenures may be estimated at one-fifth of the entire area of the district.

	No.		Rupees.
Putnee	600	jumma	2,50,000
Mourosee ijarah	25	,,	25,000
Kiemee mourosee jote	500	,,	5,000
Mussurkus	100	,,	5,000
Mutkudumee jote	100	,,	5,000
Chuck jumma	200	,,	20,000
Shikmee talook	100	,,	5,000
Mookta ooperputta jote	50	,,	2,000
	1,675		3,17,000

These tenures have generally been sublet in durputnee and durjote, and again in seputnee and durdeojote: but such instances are exceedingly few. The sub-tenure holders exercise the same rights over the ryots as zemindars; they may enhance the jumma and alienate their rights in the tenure without the sanction of the superior landlord. In the event of sale of the superior tenure under Act I. of 1845, of putnees under Regulation VIII. of 1819, and of mourosee jotes, &c., under Regulation VII. of 1799, the sub-tenures of inferior degrees, except those mentioned in Sections XXVI. and XXVII., Act I., of 1845, are liable to be cancelled at the option of the purchasers, who, however, out of policy, do not at once oust the under-tenants, but make fresh arrangements with them. The effect of a sale of the superior tenure on sub-tenures is exactly in accordance with the law, and no other practice prevails.

The zemindarees in Rungpore are subdivided into jotes of greater or less extent. Some are of considerable size, the jotedars paying as much as from 5,000 to 20,000 rupees annually to the landholder. Portions are sublet by the jotedar to persons termed choohadars, who either cultivate themselves, or collect their rents again from under-tenants. These jotes prevail principally in pergunnah Baharbund; but they are to be met with all over the district, and their number it is difficult to estimate without a patient inquiry. On the sale of the superior tenure it is not customary for the purchaser at once to oust the choohadar, but he usually calls upon them to enter into fresh engagements. There are but 54 putnees (in which are three durputnees) in Rungpore, all created within the last 10 or 15 years, on the zemindaree of the Rajah of Danasnuggur. Of the number of istemraree and mokureree jotes, called in the district oopun chuckee, the Collector can give no accurate account. The last quinquennial register for 1222, B. S. gives a total of 572 such tenures; but there are probably more. Under tenures in oopun chuckee lands are affected much in the same way as in common jotes by the sale of the superior tenure. The effect on the dur and seputnee talooks is ascertained by law.

Rajshahee, 9th December 1856, No. 201.

From the inquiries made by the Deputy Collector of Pubna it does not appear that there are any peculiar tenures in that district. About one-third of the district is let in putnee; but durputnees are not numerous, and seputnees or (as they are called in Pubna) durputnees are still fewer, if they exist at all. Both zemindars and putneedars very generally give leases of their holdings to ijarahdars for terms of years. Although the zemindars deny the existence of mourosee or mutkudmee jotes, there is no doubt that they do exist to some extent, and that many are summarily sold for arrears of rent, and some of the holders have gained decrees in the Sudder Dewanee to the effect that their jotes are of that nature, and are not liable to enhancement of jumma, or to annulment whilst the jumma is paid. One of these jotes in pergunnah Yoosufshye pays a rent of 10,000 rupees. The principle which is applied by law to under-tenures of the first degree is, in practice, considered to apply to all the sub-tenures. Thus, if the putnee tenure is transferred by private sale or under a decree of the Civil Court, the durputnees, farms, and under-holdings within it are held valid; but if the putnee is sold for arrears of rent under the provisions of Regulation VIII. of 1819, the purchaser is held to receive it free of all durputnees, farms, and incumbrances made by the late putneedar.

Commissioner of Cuttack, 21st November 1856, No. 393.

The province of Cuttack is temporarily settled. The tenures and under-tenures of every estate are defined. The sum set apart as zemindar's allowance varies from 35 to 40 per cent. The following under-tenures are not voidable by the sale of the parent estate: 1st, mourosee mokudumee, being alienations prior to the British occupation, and of a hereditary and trans-

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ferable nature. The holders are proprietors, and can only be ousted by sale under Act VIII. of 1835, on default of payment of their fixed jumma, and after summary suit. They have either a whole village or a share in it, collect the rents, and receive an allowance of 20 to 25 per cent. out of the zemindar's allowance mentioned above. In the case of half-rentally settled lands, the allowance to the zemindar and mourosee mokudum is seven and a half per cent. each. The tenures are strictly subordinate, and no butwarrah can be claimed. 2dly. Mourosee surbarakaree tenures correspond with the first, except that the allowance is less to the holder, varying from 15 to 20 per cent. 3dly. Proostee. The difference between this tenure and the mourosee mokudumee is only in name. The holders of some tenures of this name in Pooree have no recognised rights, but are mere servants of the zemindar. 4thly. Pudhanee. These are also akin to the three previous tenures; they are found chiefly in Pooree. 5thly. Shikmee zemindaree, much the same as mokudumee, the chief distinction being that, while the latter affects a village or share in it, the former applies as well to some portions of land as to an entire village. 6thly. Khureeda jummabundee. These are divided into two classes, called awul and doam, or first and second. They do not affect the right of management in a village, or share of it, but the possession of a certain specified quantity of land. The holders of the first class, who purchased from the zemindar, receive an allowance of 30 per cent., the remaining 5 or 10 per cent. going to the proprietor of the parent estate; those of the second class, who purchased from the mokuddum or other holder of a sub-tenure, are regarded as representatives of the latter, and are allowed 20 per cent., 15 per cent. being allowed to the proprietor of the parent estate, or if the land be managed through a mokudum, then the per-centage is equally divided between him and the zemindar. The tenures of the first and second class, formed prior to the British acquisition of the province, are hereditary and transferable, and are not affected by the sale of the parent estate; those of subsequent formation are vitiated, unless otherwise provided at the settlement. 7thly. Ayma, exactly the same as khureeda jumma bundee. 8thly. Tunkee, or alienations at quit or fixed rents prior to the British occupation.

The following under-tenures are null and void on the sale of the parent estate for arrears: 1st. Meadee mokudumee; 2d. Meadee surburakaree. Both these were created since the British occupation. 3d. Shikmee zemindaree. There is only one tenure of this class ascertained, and no apportionment of profits was made, but the parties were left to settle it among themselves. 4th. Pudhanee. Two tenures of this kind are reported in Cuttack; but the holders seem to have no rights of any kind, and to be mere servants of the zemindar, who has the right, under the settlement, to oust them for misbehaviour, and the common ijarah, or farm, usually of one or more villages for a certain number of years, is of subsequent date to the British rule.

List of Under-tenures in Zillah Cuttack.

—	Number.	Mouzahs.	Area in Acres.	Mofussil Assets.	Jumma paid to Zemindar.
Not voidable:					
1. Mokudumee	446	498	89,241	77,765	58,758
2. Mourosee Surbarakaree	236	266	43,830	41,541	33,087
3. Proosethi	9	12	950	873	641
4. Shikmee Zemindaree	68	322	2,388	3,911	2,733
5. Tunkee	200	64	1,909	1,406	844
6. Khureeda Jummabundee	8,537	2,335	23,562	31,636	23,893
7. Ayma	232	62	801	1,037	718
Voidable:					
1. Meadee Mokudumee	45	49	3,726	3,081	2,312
2. Meadee Surbarakaree	34	37	7,194	6,276	5,519
3. Shikmee Zemindaree	1	1	582	322	322
4. Pudhanee	2	2	1,923	244	189

Commissioner of Patna, 29th November 1856, No. 1147.

The under-tenures in the province of Behar are, first, mokureree grants, of which there are four kinds. The first kind descends in hereditary succession, and are given out on receiving a specified sum, styled nuzurana, without any regard to the Government revenue, which is paid by the maliks. The second kind descends also in hereditary succession, on receipt of nuzurana, conditionally, on the holder complying with certain stipulations, on default of which the tenure is liable, by the wording of the deed, to be resumed by the malik. The stipulation generally is, that the holder pay the Government revenue, and that default of three kists at any time during the year authorises the malik to institute a summary suit for recovery, and to eject the incumbent; but if the tenure is hereditary, the courts have decided that the malik cannot eject the holder; but, on default, can only cause the sale of the mokureree rights. The third kind is only a life tenure, held without payment of nuzurana, conditionally, on the holder paying such a fixed annual sum as covers the Government roll, and ensures besides a certain profit to the malik. The fourth kind is of similar import, held only for life, and on payment of nuzurana.

2. Ijarahs.—These differ very little from ticcas. In ticcas the malik looks to some considerable profit over and above the Government roll. In ijarahs the malik is content with a very small profit, but demands, in compensation, a large sum as zurpeshgee. These ijarahs are always given for five, seven, or nine years, at the end of which time, if the zurpeshgee is repaid, the land lapses again to the malik; if unpaid, the land remains in the hands of the jarahdar till the debt is liquidated. No interest is given, the profits of the lease being considered an equivalent. These ijarahs are diversified by stipulations, according to the will and interest of the parties concerned.

3. Ticcas or Farms.—Of these there are eight or perhaps more kinds, but one general principle marks the whole. The first kind is let out at a stipulated jumma on payment of zurpeshgee without specification of time, and remains in force as long as the zurpeshgee remains unrecovered. The second is let out for a fixed period without zurpeshgee, but on payment of an annual sum to the malik. The third is leased out for a fixed term on payment of a large nuzurana conditionally, on the farmer paying the Government roll only. The fourth is let out for a stipulated period on payment of zurpeshgee, which is repaid at the close of the engagement. The fifth is leased out for a period on payment of zurpeshgee, which is repaid annually by deducting certain sums from the rent. The sixth appertains to mokureree wazoozasht estates, paying a certain fixed sum to the State, as specified in Regulation VIII. of 1793; and which are leased out on the mokureree jumma on payment of nuzurana. The seventh is leased out at a fixed rate for the life-time of the ticcadar, on payment of a nuzurana. The eight is leased out on payment of a stipulated number of maunds of grain in kind, for a fixed number of years, liable to resumption if the grain or an equivalent in money is not handed over to the proprietor at given periods. A summary suit is in this as in all the other instances, a necessary prelude to ejection.

There being no register of under-tenures, their number cannot be ascertained, but it is presumed that one-half of the land in the division is let out in under-tenures, a system which the large landed proprietors prefer to the trouble of seer management. Tenures derived from proprietors direct, are let and re-let over and over again. In each and every instance of under-tenures enumerated above, the sale of the parent tenure for arrears, cancels existing agreements. None are exempt from the ordeal but those protected by Section XXVI., Act I., of 1845.

4. Shikmee Tenures.—These are recognised at the time of settlement effected under Regulation VII. of 1822. They are the lands resumed under Regulation IX. of 1825, being found to have been held under invalid titles, or what parties entitled to a malikana immunity in lakheraj estates originally held as a tenth part of the estate by virtue of that right. These tenures are brought under settlement as dependant talooks, in accordance with the Board's Circular, No. 52, of the 7th August 1838, and are held to be transferable property by gift, inheritance, or sale. They are also let and sublet, and are sold in satisfaction of summary decrees for rent, under Act VIII. of 1835. The holders of these lands pay a fixed revenue to the zemindars, and are not affected by the sale of the parent mehal.

Commissioner of Chittagong,
2d December 1856,
No. 200.

In Chittagong the tenures immediately above the holdings of tenants at will are successively as follows:—

Third class istemraree, ryottee, chasa, and durtuppa;

Second class itmauree and tuppa;

Third class talook;

And above the talooks are the several denominations of sudder mehals which are under direct engagement with Government.

In Bullooah the tenures lowest in the scale, not reckoning jotes of cultivators, are vasat talook, neem talook, shikmee tuppa, neem howlah, mushkussee ryotee, gyrmokureree, merasee jote, and kursa jote: above these are howlah, puttaee talook, and shikmee talook. To these also may be added, because the holders pay their rents to the superior landlord, tuppas, jimba, and khood khast, and then come the estates which pay revenue to Government direct.

In Tipperah the tenures next above the ordinary jotes are duraghat talook, jimba, chuckhusta, mushkussee, and dur talook. Above them are aghut talook, khoshbash karkona, meeras, howlah, puttaee, and ousut talook; after which follow the several denominations of zemindarees.

In all the above classes the tenures under each class are like, or equal tenures, and are not gradations of tenures. The classes are grades of each other. All are understood to be permanent, hereditary, and transferable tenures. All lapse with the sale of the parent state, except those protected under Act I. of 1845. For sale on any other account than arrears of Government revenue, the inferior tenures do not fall. The sale of a superior tenure for arrears does not affect the lower tenures. Every description of tenure and under-tenure is subject to sale by summary process for arrears. Where there is no stipulation rendering the tenure liable to sale for arrears, a sale can only be resorted to after a decree obtained at the end of the year; where such a stipulation has been entered into, sales are made of the tenure in arrear without the necessity of a prior decree, just as putnee talooks are sold at the mere instance of the zemindar after a short notice. Indeed

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the same law is the authority in both cases; but, except in the case of putnees under Regulation VIII. of 1819, the holder of a lower tenure has no option or power to pay up the arrear of the tenure immediately superior, and save it from sale.

Besides the several tenures enumerated above, there are in all the three districts of the division putnee talooks: these are however not generally common. There are also in certain parts of the division a few tenures peculiar to the locality, of both superior and inferior grades, but they differ in no essential respect from those which generally obtain.

Commissioner of Bhaugulpore, 6th December 1856, No. 33.

The Collector of Bhaugulpore reports that there are very few mokurerees and no shikmee tenures in that district, and that he is not aware of any sub-tenures.

The Collectors of Monghyr and Tirhoot have misunderstood the point of the inquiry. The first mentions mokureree, takas, kutkeenas, and mortgages; the other gives a list of names of fifty descriptions of rent-free holdings. Further report has been called for, but to avoid delay, Commissioner says that, from what he can gather from the work which comes before him and otherwise, mokureree and shikmee tenures liable to be affected by the sale of the parent estate, are very rare in the districts in question, and that sub-tenures under them are almost unknown. Where they do exist they are merely for temporary periods.

Commissioner of Assam, 5th December 1856, No. 149.

All the land in Assam is held on the same tenure, that is, in full right of either possession or occupation subject to the payment of the Government revenue by the pottahdars. There are no under-tenures known to the regulation and requiring provision in the proposed law of sale. A small quantity of land is cultivated by ryots not proprietors, or not holding pottahs from the Collector, but all such are merely tenants at will or pykasht ryots. Other holders of land paying revenue may be considered as the actual landholders, liable to pay a tax for their land, or as khoodkasht ryots paying rents, the Government being the zemindar.

(signed) *E. T. Trevor,*
Officiating Secretary.

From the Secretary to the Government of Bengal, to the Member of the Legislative Council for Bengal, No. 17, dated Fort William, 10 January 1857.

Revenue.

Sir,

In continuation of my letter No. 13 dated the 6th instant, I am directed to forward herewith a copy of a letter, No. 7 dated the 7th instant, from the Officiating Secretary to the Board of Revenue, on the subject of the under-tenures of the districts of Balasore and Pooree.

I have, &c.
(signed) *W. Grey,*
Secretary to the Government of Bengal.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal, Revenue Department, No. 7, dated Fort William, 7 January 1857.

Land Revenue.
W. Dampier and H. Stainforth, Esquires.

Sir,

In continuation of my letter of the 19th ultimo, No. 503, I am directed by the Board of Revenue to submit the following particulars relative to the under-tenures in the districts of Balasore and Pooree, which were not given in the first return of the Commissioner of Cuttack.

	Balasore.	Pooree.
Not voidable:		
Mourosee Mokudumee - - - - - -	123	452
Ditto Surburakaree - - - - - -	205	197
Proostee - - - - - - -	3	—
Mourosee Khureeda Jumabundee - - -	2,132	94
Surburakaree - - - - - - -	50	—
Dur Shikmee - - - - - - -	6	—
Voidable:		
Pudhanee - - - - - - - -	- -	281
Meadee Khureeda Jumabundee - - -	12	—
Ditto Mokudamee - - - - - -	1	—
Ditto Surburakaree - - - - -	4	197

I have, &c.
(signed) *E. T. Trevor,*
Officiating Secretary.

From the Secretary to the Government of Bengal, to the Member of the Legislative Council for Bengal, No. 59, dated Fort William, 2 February 1857.

REVENUE.

Sir,

In continuation of the office letter, No. 17, dated the 10th ultimo, I am directed to forward herewith a copy of a letter, No. 51, dated the 28th idem, from the Officiating Secretary to the Board of Revenue, on the subject of the tenures and under-tenures of zillah Maldah.

I have, &c.
(signed) *A. R. Young*,
Secretary to the Government of Bengal.

From the Officiating Secretary to the Board of Revenue, Lower Provinces, to the Secretary to the Government of Bengal, Revenue Department, No. 51, dated Fort William, 28 January 1857.

LAND REVENUE.
W. Dampier, Esq.

Sir,

In continuation of my letter of the 19th ultimo, No. 503, I am directed by the Board of Revenue to forward a copy of a letter from the Commissioner of Rajshahye, dated the 31st ultimo, No. 224, on the subject of the tenures and under-tenures of zillah Maldah. The information is extremely meagre, but, for the reasons before stated, full particulars, cannot be had without an investigation almost inquisitorial.

I have, &c.
(signed) *E. T. Trevor*,
Officiating Secretary.

From the Commissioner of Revenue, Rajshahye Division, to the Board of Revenue, Lower Provinces, Fort William, No. 224, dated Rajshahye, the 31st December 1856.

Gentlemen,

Having now received the reply of the Officiating Deputy Collector of Maldah on the subject of the tenures and sub-tenures of his district, I have the honour, in continuation of my letter No. 188 of the 29th November last, to report that the information which that officer has been able to collect on the subject is to the last degree unsatisfactory and altogether fails to supply such data as alone would enable him to furnish a full and complete reply to your Board's call. To many of his requisitions addressed to different landholders in the district he has received no replies at all, and those that have been furnished either evade the question, or contain little beyond some general statements which convey no information upon it whatever. With such data to found upon, it is of course impossible to speak, he says with any degree of certainty that such conclusions as he may come to would be found correct, if severely tested; in fact he can do little beyond conveying his general impression on the subject.

2. He regrets that the information in his possession will not allow of his attempting to give any estimate of the number of tenures of the second and inferior degrees now existing in the district; all that he can say on the subject with any degree of confidence is that they appear to be considerably fewer in number than he had previously supposed. In many zemindaries there are none at all, if at least the zemindârs' statement of the case be correct, as indeed he believes it to be in many instances, the land being entirely in the hands of ryots who pay rent direct to the zemindar without the intervention of any middleman: this state of things appears to prevail to the greatest extent in the northern and eastern parts of the district.

3. In the southern on the other hand, and especially in the large pergunnah of Shershabad, sub-tenures of the kind referred to in Mr. Currie's letter are found to a large extent. A requisition for information on the subject addressed to the proprietors of this purgunnah not having elicited any answer as yet, he is unable to state the approximate numbers of these tenures, but he knows it to be large. In fact the general impression of people acquainted with the condition of the property is that it has been destroyed as a zemindary by the creation of these jotes as they are called. The jotedars of Shershabad, it is well known, swallow up all the profit that is got from the estate, and little or none passes by them into the hands of the zemindars.

4. He has been unable to ascertain to what extent sub-tenures of the lower degrees prevail in this and other properties. Of a number of requisitions, addressed to various jotedars on the Shershabad estate, one only has elicited an answer; the jotedar in this instance states that there are no shikmee jotes or durjotes on his property. Mr. Craster is inclined to think that sub-tenures of these lower degrees are not very numerous in his district, though what their number may be from total want of all data he cannot pretend to estimate.

5. As to the manner in which the sub-tenures are affected by sale of the superior tenure in cases where the mehal is sold for arrears of Government revenue, all under-tenures, with the exception, of course, of those belonging to the classes specially protected by legal enactment, are annulled. The same rule does not apply to the cases of sub-tenures of the lower degrees: these, it appears, are not voided by the sale of the superior sub-tenure; the purchaser, it would seem, merely steps into the place of the late proprietor without acquiring any right or interest in the property beyond that of which his predecessor was in actual possession.

I have, &c.
(signed) *F. Gouldsbury*,
Commissioner.